



# BOARD OF COMMISSIONERS

1 S. Main St., 9th Floor  
Mount Clemens, Michigan 48043  
586-469-5125 FAX 586-469-5993  
[macombcountymi.gov/boardofcommissioners](http://macombcountymi.gov/boardofcommissioners)

## BUDGET COMMITTEE

TUESDAY, JANUARY 22, 2008

### AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Adoption of Agenda
4. Public Participation
5. Receive and File Update on Pension Review Project from Plante & Moran (Item postponed from 12-11-07) (mailed)
6. Authorize Actuarial Fees Not to Exceed \$25,000 in Support of the Pension Review Project (Item postponed from 12-11-07) (mailed)
7. Recommendation from Justice and Public Safety Committee Meeting of 01-14-08 (mailed)  
Authorize a Professional Services Contract with Sound Counseling, Inc. to Provide Therapeutic Services at the Macomb County Juvenile Justice Center
8. Direct County Clerk to Mail AV Application Forms to Seniors (mailed)
9. Approve \$163,720 in Additional Departmental Spending Cuts in the 2008 Budget as Noted on Revised Exhibit I (mailed)
10. Receive and File Retiree Health Care Trust Fund Financial Report for 2006 (mailed)
11. New Business
12. Public Participation
13. Adjournment

## MACOMB COUNTY BOARD OF COMMISSIONERS

William A. Crouchman  
District 23  
Chairman

Dana Camphous-Peterson  
District 18  
Vice-Chair

Leonard Haggerty  
District 21  
Sergeant-At-Arms

Andrey Duzyj - District 1  
Marvin E. Sauger - District 2  
Phillip A. DiMaria - District 3  
Jon M. Switalski - District 4  
Susan L. Doherty - District 5

Joan Flynn - District 6  
Sue Rocca - District 7  
David Flynn - District 8  
Robert Mijac - District 9  
Philis DeSaele - District 10

Ed Szczepanski - District 11  
Peter J. Lund - District 12  
Don Brown - District 13  
Brian Brdak - District 14  
Keith Rengert - District 15

Carey Torrice - District 16  
Ed Bruley - District 17  
Paul Gielegghem - District 19  
Kathy Tocco - District 20

Betty Slindé - District 22  
Sarah Roberts - District 24  
Kathy D. Vosburg - District 25  
Leon Drolet - District 26

RESOLUTION NO.

FULL BOARD MEETING DATE

AGENDA ITEM

MACOMB COUNTY, MICHIGAN

RESOLUTION TO receive and file an update on the Pension Review Project from Plante & Moran AND authorize actuarial fees not to exceed \$25,000 in support of the project.

INTRODUCED BY: Commissioner Don Brown  
Chair, Budget Committee

COMMITTEE/MEETING DATE

Budget/January 22, 2008

\_\_\_\_\_

\_\_\_\_\_



## FINANCE DEPARTMENT

10 N. Main St., 12th Floor  
Mount Clemens, Michigan 48043  
586-469-5250 FAX 586-469-5847

January 14, 2008

David M. Diegel  
Finance Director

John H. Foster  
Assistant Finance Director

Robert Grzanka, C.P.A.  
Internal Audit Manager

Stephen L. Smigiel, C.P.A.  
Accounting Manager

Commissioner Don Brown, Chairperson  
and Members of the Budget Committee  
9<sup>th</sup> Floor-Administrative Building  
Mount Clemens, Michigan 48043

Dear Commissioner:

I am forwarding an update from Plante & Moran dated January 14, 2008 regarding their engagement to provide suggested changes to our existing defined benefit pension plan.

Also enclosed is a proposal from our Actuary, Gabriel Roeder Smith and Company which summarizes their proposed fee schedule to perform the necessary actuarial analysis required for the examination of the existing pension plan and any suggested changes.

You may recall that the Budget Committee previously limited Plante & Moran's fees to \$25,000 for this project. Gabriel, Roeder, Smith and Company are projecting costs of \$25,000 to perform the necessary actuarial analysis for eight different scenarios for both General and Sheriff Department employees.

Mr. Joe Rankin of Plante & Moran, will be in attendance at the January 22, 2008 Budget Committee to make a presentation and answer questions.

Sincerely yours,

David M. Diegel  
Finance Director

DMD:ts

Enclosures

### MACOMB COUNTY BOARD OF COMMISSIONERS

Andrey Duzyj - District 1  
Marvin E. Sauger - District 2  
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Leon Drolet - District 26

**PRIVATE AND CONFIDENTIAL**

January 14, 2008

Mr. David M. Diegel  
Finance Director  
Macomb County  
10 North Main St.  
12<sup>th</sup> Floor, County Building  
Mt. Clemens, MI 48043

**Re: Update on Employee Benefit Consulting Services**

Dear Mr. Diegel:

This letter is an update to the letter sent under cover of December 3, 2007. The major difference from the prior correspondence is the options valued as part of this engagement include no assessment of freezing of any active employee benefits in Retirement System. Additionally, a limited number of hybrid retirement plans will be considered that also include providing benefits under the defined benefit plan as well as benefits being provided in a defined contribution plan.

Plante & Moran has been engaged by the Macomb County Board of Commissioners to assist it in reviewing the Macomb County Employees Retirement System. In particular, the three major components of the assignment are to:

1. Assess Current and Projected System – under a variety of alternatives with the assistance of the system's current actuary
2. Plan Design Alternatives – determine the future additive costs of a defined contribution plan, and
3. Final Analysis Report – prepare a report highlighting findings

The completion of work is contingent upon:

1. the availability of the actuary to assist in preparation of certain projections,
2. approval of the actuary's fees by Macomb County
3. explanation of the methodology to the Board of Commissioners prior to the actuarial work being initiated, and
4. the amount of board requested capitated fees being sufficient to complete the assignment

**Project Status**

The actuary has proposed on providing twenty year projections for the General County and the Sheriff's Department, including:

1. necessary contributions as a percent of payroll – both employer and employee contributions net of any adjustments for UAL as a level percent of payroll
2. payroll – by existing and future participants,
3. valuation assets
4. accrued liability and
5. funded percentage.

The projections are for the following nine scenarios:

Scenario	Annual Investment Return	New Entrants Permitted?	Actives Remain in Defined Benefit Plan?	Value Active Employee Individually Directed Option to Enroll in Defined Contribution Plan?	Hybrid Plan Consideration?
Baseline	7.50%	Yes	Yes	N/A	No
1	5.00%	Yes	Yes	N/A	No
2	10.00%	Yes	Yes	N/A	No
3	7.50%	No	Yes	N/A	Yes
4	5.00%	No	Yes	N/A	No
5	10.00%	No	Yes	N/A	No
6	7.50%	No	Yes	Yes	Yes
7	5.00%	No	Yes	Yes	No
8	10.00%	No	Yes	Yes	No

It is understood that the actuarial information is an estimate and as such, it will not be represented to have the same form and precision of a standard actuarial valuation. It is also understood that the permissibility of the permutations requested may be a matter of law, collective bargaining, or both – if the Board of Commissioners desire action to implement any of the alternatives represented in Plante & Moran's study, we will advise them to seek legal opinions prior to taking any such action. Finally, because of the interplay of the pension plan with the retiree health benefits provided by the county, we will recommend that the relative impact associated with the retiree medical plan be assessed prior to making any formal recommendations.

#### **Next Steps/Actions to Further the Assignment**

Addressing the above-referenced contingencies is necessary to complete the assignment. At this time,

1. the actuary is available to assist in preparation of certain projections – it is estimated that projection could be completed by mid- to late-February once the fees are approved
2. the approval of the actuary's fees by Macomb County is pending an explanation of the approach to the Board of Commissioners

3. an explanation of the methodology to the Board of Commissioners is scheduled to take place at the January 22, 2008 budget meeting, and
4. the amount of board requested capitated fees being sufficient to complete the assignment is not an issue at this time – fees incurred are well below the amount quoted.

Several meetings and conversations have taken place with the actuary and consultant and templates have been created to facilitate the production of estimated costs and a final report.

Once the actuarial fees are approved and the associated work product is complete, I anticipate a preliminary report be available within 2 weeks.

Please call me at (248) 375-7361.

Very truly yours,

**PLANTE & MORAN, PLLC**



Joseph F. Rankin

November 9, 2007

Mr. David M. Diegel, Finance Director  
Macomb County Employees' Retirement System  
10 North Main Street  
County Building - 12<sup>th</sup> Floor  
Mount Clemens, Michigan 48043

**Re: Macomb County Employees' Retirement System - Proposed Fees for 20  
Year Projections Requested by Plante & Moran**

Dear Dave:

As you know, Gabriel, Roeder, Smith & Company (GRS) received a request from Plante & Moran to prepare 20 year projections for the Macomb County Employees' Retirement System under various scenarios. The request is described in detail in a letter dated November 1, 2007 addressed to Cathy Nagy of GRS, from Joe Rankin of Plante & Moran. These projections are a part of a larger study that Plante & Moran will conduct at the request of the Macomb County Board of Commissioners.

The purpose of this letter is to provide our proposed fees for preparing these projections.

*Scope of Services and Fees*

As requested, for the General County and the Sheriff's Department, GRS will prepare 20 year projections of the following:

- Employer and employee contributions as a percentage of payroll
- Payroll projections for both current active employees and future new hires
- Valuation Assets
- Actuarial Accrued Liabilities
- Funded Percentage (ratio of valuation assets to actuarial accrued liabilities)

The projections will be prepared based on the following information:

- The demographic and financial information provided by the County for the December 31 2006 actuarial valuation of the Retirement System
- The same assumptions that were used in the December 31, 2006 actuarial valuation, except as modified in the scenarios described on the next page
- No changes in benefits during the projection period for the members who remain in the defined benefit program
- New entrants will replace members who retire, withdraw or die such that the active population remains stable

*Reed*  
11-13-07

The projections will be prepared under the following scenarios:

**General County**

<i>Scenario</i>	<i>Annual Investment Return</i>	<i>New Entrants Permitted?</i>	<i>Current Actives Remain in the Defined Benefit Plan</i>	<i>Fees Per Scenario</i>
Baseline	7.50%	Yes	Yes	\$ 4,000
1	5.00%	Yes	Yes	750
2	10.00%	Yes	Yes	750
3	7.50%	No	Yes	2,000
4	5.00%	No	Yes	750
5	10.00%	No	Yes	750
6	7.50%	No	No	2,000
7	5.00%	No	No	750
8	10.00%	No	No	750
<b>Total</b>				<b>\$12,500</b>

**Sheriff's Department**

<i>Scenario</i>	<i>Annual Investment Return</i>	<i>New Entrants Permitted?</i>	<i>Current Actives Remain in the Defined Benefit Plan</i>	<i>Fees Per Scenario</i>
Baseline	7.50%	Yes	Yes	\$ 4,000
1	5.00%	Yes	Yes	750
2	10.00%	Yes	Yes	750
3	7.50%	No	Yes	2,000
4	5.00%	No	Yes	750
5	10.00%	No	Yes	750
6	7.50%	No	No	2,000
7	5.00%	No	No	750
8	10.00%	No	No	750
<b>Total</b>				<b>\$12,500</b>

The total proposed fee for these projections is \$25,000.

We will summarize the results of our analysis in a letter. In addition, we will provide the results of the projections to Plante & Moran in a spreadsheet, which will allow them to analyze other benefit programs for both future new hires and current active employees.

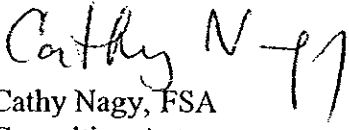
Please note that these proposed fees include preparing the projections and summarizing the results in a letter. The fees do not include any meetings or any other analysis not described in Plante & Moran's November 1, 2007 letter.

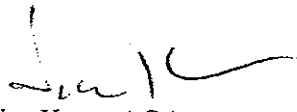
*Timing*

We will coordinate the timing of the project with Plante & Moran upon approval of our fees.

Gabriel, Roeder, Smith & Company appreciates the opportunity to be of service to you. Please let us know of your decision regarding this project. In the meantime, if you have any questions do not hesitate to contact us.

Sincerely,

  
Cathy Nagy, FSA  
Consulting Actuary

  
Jim Koss, ASA  
Consulting Actuary

CN:WJK:lr

cc: Joe Rankin – Plante & Moran  
Francois Pieterse – GRS

# **RECYCLABLE PAPER**

RESOLUTION NO. \_\_\_\_\_

FULL BOARD MEETING DATE: \_\_\_\_\_

AGENDA ITEM: \_\_\_\_\_

**MACOMB COUNTY, MICHIGAN**

**RESOLUTION TO** Authorize a professional services contract with Sound Counseling, Inc. to provide therapeutic services at the Macomb County Juvenile Justice Center. The contract will facilitate a savings of \$28,600 annually. Forward to the Budget Committee

**INTRODUCED BY:** Commissioner Keith Rengert, Chair, Justice & Public Safety Committee

**COMMITTEE/MEETING DATE**

JPS \_\_\_\_\_ 1-14-08 *Approved*  
Budget \_\_\_\_\_ 1-22-08

Item # 7

RECEIVED  
JAN 03 2008

Risk Management &amp; Safety

Distributed

TO: Keith Rengert, Commissioner

FROM: Charles Seidelman

SUBJECT: CONTRACT/PROGRAM REVIEW REQUEST

Title: Director

Department: Juvenile Justice Center

Contact Person: Charles Seidelman

Date Submitted: January 2, 2008

Telephone Number: 465-9162

BOARD OF COMMISSIONERS/COMMITTEE APPROVAL DATE

Status: Check appropriate box

☐ Initial ☐ Revision ☐ Extension ☐ Final☐ Other (Please explain below)

Other

OFFICE OF CORPORATION COUNSEL

Approved

Dated

Rejected\*

Dated

OFFICE OF RISK MANAGEMENT

Approved

Dated

Rejected\*

Dated

FINANCE DEPARTMENT

Approved

Dated

Rejected\*

Dated

Contract/Program Synopsis

Currently the Juvenile Justice Center's Treatment Programs receive therapeutic (masters level) professional services by contracting with two individual therapists. One of the current contractors has incorporated and has agreed to a service model that would increase productivity, continue effective treatment, and reduce County costs (see attached letter).

\*\*When Rejected Attach Explanation

RECEIVED

JAN 07 2008

MACOMB COUNTY  
FINANCE

RECEIVED

JAN -2 2008

CORPORATION COUNSEL



# JUVENILE JUSTICE CENTER

400 N. Rose St.  
Mount Clemens, Michigan 48043  
586-469-5375 FAX 586-469-0815

January 2, 2008

Keith Rengert  
Board of Commissioners  
One S. Main St.  
Mt. Clemens, MI 48043

**Re: Renewal of Therapist Contract**

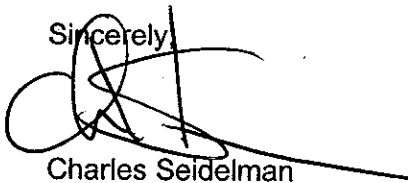
Dear Keith:

I am requesting approval of the contract for therapeutic services for the New Dimensions and Next Step Treatment programs. The contract reduces expenditures for these services by \$28,600 per year compared to 2007. Having one counseling center responsible for both programs increases their productivity allowing not only a reduction of therapist time from 40 to 30 hours for New Dimensions, but also allowed for a reduction of the hourly reimbursement rate from \$40 to \$37.50.

2008 Proposal (1 Contract)			
	Hourly Wage	Hours Per Week	Yearly
Sound Counseling	\$37.50	60	\$117,000.00
2007 Contracts (2 Separate)			
New Dimensions	\$40.00	40	\$83,200.00
Next Step	\$40.00	30	\$62,400.00
			<b>\$145,600.00</b>
		<b>Difference</b>	<b>\$28,600.00</b>

The contract currently is in the review process which should be completed before the full Board meeting scheduled for January 24, 2008. Your approval of this contract would be appreciated.

Sincerely,

  
Charles Seidelman  
Director

CS/db

H:\Treatment\Proposal2008.doc

## MACOMB COUNTY BOARD OF COMMISSIONERS

Andrey Duzjy - District 1  
Marvin E. Sauger - District 2  
Phillip A. DiMaria - District 3  
Jon M. Switalski - District 4  
Susan L. Doherty - District 5

Sue Rocca - District 7  
Diana J. Kolakowski - District 8  
Robert Mijac - District 9  
Phillis DeSaele - District 10  
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Keith Rengert - District 15  
William J. Revoir - District 16

Nancy M. White  
District 20  
Chair

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Sergeant-At-Arms

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Bob Gibson - District 18  
Paul Gielegghem - District 19  
Betty Slinde - District 22

William A. Crouchman - District 23  
Peggy A. Kennard - District 24  
Kathy D. Vosburg - District 25  
Nicholyn A. Brandenburg - District 26

Revised

Item # 7 Budget  
Committee  
1-22-08

Distributed

## CONTRACT FOR PROFESSIONAL SERVICE PROVIDER

This agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by and between  
MACOMB COUNTY Board of Commissioners, a Board organized under the laws of the State of  
Michigan, P.A. 1978, No. 368, with its principal offices at One S. Main, 9<sup>th</sup> Floor, Mt. Clemens,  
Michigan 48043, hereinafter referred to as the "BOARD" and Sound Counseling whose address  
is 22301 Greater Mack Ave., Suite 3, St. Clair Shores, MI 48080 hereinafter referred to as the  
"Professional Service Provider."

WHEREAS, the BOARD is created under and existing by virtues of the laws and statutes  
of the State of Michigan and under Section 20613 of P.A. 1978, No. 368, is charged with the  
supervision of and the responsibility of the administration of the **Macomb County Juvenile  
Justice Center (JJC)**, and said BOARD desires to have certain services performed at its place  
of business or elsewhere, and said services hereinafter detailed, and,

WHEREAS, the PROFESSIONAL SERVICE PROVIDER through their employees  
experience and education, possesses the requisite skills to perform such services,

WHEREAS, the PROFESSIONAL SERVICE PROVIDER, agrees to perform said  
services for the BOARD under such terms and conditions as set forth in this AGREEMENT.

IN CONSIDERATION of the mutual promises as set forth herein, it is agreed by and  
between the respective parties hereto as follows:

### SECTION ONE DESCRIPTION OF WORK

The services to be provided by the PROFESSIONAL SERVICE PROVIDER,  
commencing January 1, 2008 and terminating December 31, 2008, shall include the specific  
services hereinafter detailed but not limited thereto:

Sound Counseling will provide and supervise a Master's Level Therapist Counselor for  
the Next Step Sexual Offender Program and the New Dimensions Dual Diagnosis Program  
operated at the Macomb County Juvenile Justice Center maximum of 60 hours per week.

Other requirements:

- 1) Present potential therapists for approval prior to assignment. Therapist will be required at minimum to present proof of criminal and child abuse clearances.
- 2) Weekly provide 7.5 hours of direct group sessions in addition to three individual sessions for all program youth.
- 3) Facilitate a weekly team meeting as described by MCJJC Policy and Procedure.
- 4) Provide written progress reports to the Court of Jurisdiction through the Director of the JJC.
- 5) Meet in person with the youth and their significant family members, minimally on a monthly basis.
- 6) Be available in the specific unit providing guidance for the treatment milieu.
- 7) Provide a method of contact for off hour consultation for emergency issues with a response time of thirty minutes or less.
- 8) Facilitate a therapeutic session with the resident and their family/parent monthly, increasing frequency if indicated.

**SECTION TWO**  
**PAYMENT**

The BOARD will pay the PROFESSIONAL SERVICE PROVIDER hereunder the sum of thirty seven dollars and 50/100 (\$37.50) per hour worked during the term of this contract not to exceed the twelve (12) month term amount not to exceed an annual amount of \$117,000; such payment to be made bi-monthly during the term of this agreement.

The parties understand and agree that the BOARD shall not provide the PROFESSIONAL SERVICE PROVIDER with any of the benefits, whatsoever, afforded to the employees of Macomb County JJC.

FURTHER, both parties understand that the PROFESSIONAL SERVICE PROVIDER provides a contract service and is not a member of any bargaining unit representing employees in negotiations with the BOARD.

The PROFESSIONAL SERVICE PROVIDER will visit the Facility sixty (60) hours per week based on need and mutual agreement with the Director.

### **SECTION THREE** **SUPPLIES**

The Facility hereby agrees to assume responsibility for the furnishing of all necessary supplies, paper products and equipment as well as all necessary clerical support.

### **SECTION FOUR** **RELATIONSHIP OF PARTIES**

The parties intend that in performing the services delineated in the Agreement the PROFESSIONAL SERVICE PROVIDER is acting as an independent contractor; and that the PROFESSIONAL SERVICE PROVIDER will perform such services in accordance with current methods and practices of his/her profession.

### **SECTION FIVE** **EVALUATION OF SERVICES**

The Director or designee will evaluate both the quantity and quality of services by the PROFESSIONAL SERVICE PROVIDER. During any subsequent contract agreements, if both parties have agreed to an extension of the contract, such evaluation will be conducted annually. A report will be prepared by the Director at the conclusion of said evaluation and submitted to the Board.

### **SECTION SIX** **PROFESSIONAL LIABILITY INSURANCE**

The contractor hereby agrees to purchase and maintain in force, throughout the term of this agreement, or any extension hereof, a policy of professional liability insurance in the amount of one million dollars (\$1,000,000). Such insurance shall name Macomb County and the Juvenile Justice Center as additional insured. Evidence of such insurance will be in the form of a certificate of insurance which shall provide for twenty days notice of material change of cancellation to the Director of Risk Management and Safety, c/o Macomb County Juvenile Justice Center.

NOTE: For Professional Liability Insurance:

- A. Motor Vehicle Liability Insurance including Michigan No-Fault coverage for all hired and leased vehicles, owned and non-owned autos with the minimum limits of one million dollars, \$1,000,000 as a combined single limit for each occurrence for bodily injury and property damage.

- B. Michigan Workers' Compensation Insurance at the statutory limits and/or proof of Health/Hospitalization Insurance.
- C. The Professional Service Provider, Sound Counseling, shall name the County of Macomb as an additional insured on its General Liability Policy and submit a copy of the certificate of insurance to Risk Management of Macomb County.

## **SECTION SEVEN**

### **INDEMNIFICATION AGREEMENT**

Sound Counseling agrees to indemnify and hold harmless Macomb County and the Macomb County Juvenile Justice Center from any claims or demands including the costs, expenses and reasonable attorney fees on account thereof that may be made by anyone for injuries to person or damage to property arising out of the acts or omissions of the Contractor relating to said contractor's services and not resulting from the sole negligence of Macomb County, the Macomb County Juvenile Justice Center (JJC), or its commissioners, officers, employees or agents.

## **SECTION EIGHT**

### **ACCESS TO BOOKS AND RECORDS**

The books, records and documents of the PROFESSIONAL SERVICE PROVIDER pertaining to this Agreement shall be made accessible, upon written notice, for inspection by the Comptroller General of the United States, the Secretary of Health and Human Services and their authorized representatives until the expiration of four (4) years after the services hereunder are furnished.

## **SECTION NINE**

### **TERMINATION OF CONTRACT**

The parties acknowledge and agree that in the event of the death or revocation of licensure of the undersigned PROFESSIONAL SERVICE PROVIDER, Sound Counseling, that this Agreement shall automatically terminate upon the occurrence of either such event. Upon such termination, the PROFESSIONAL SERVICE PROVIDER shall be paid, under the terms hereof, to the date of said termination.

**SECTION TEN**  
**DURATION**

The parties hereto understand and agree that this Agreement shall terminate December 31, 2008. Further, both parties agree that this Agreement may be extended on a month-by-month basis as necessary. Either party hereto may exercise the prerogative to terminate the Agreement by thirty (30) days written notification.

In order to assure the quality and timeliness of services furnished by outside resources, the facility assumes responsibility to utilize only those outside resources that are professional, competent, and that furnish services promptly and accurately.

**SECTION ELEVEN**  
**CRIMINAL BACKGROUND CHECK**

Sound Counseling, PROFESSIONAL SERVICE PROVIDER, hereby agrees to comply with the State requirements for clearance from completion of a criminal background check.

All notices regarding this contract need to be sent to the Director of the Macomb County Juvenile Justice Center, 400 N. Rose, Mt. Clemens, MI 48043, acting on behalf of the Macomb County Board of Directors.

\_\_\_\_\_  
Charles Seidelman, Director  
Macomb County Juvenile Justice Center

Date: \_\_\_\_\_

\_\_\_\_\_  
Robert Schumann, Sound Counseling

Date: \_\_\_\_\_

\_\_\_\_\_  
William Crouchman  
Macomb County Board Chair

Date: \_\_\_\_\_

See Revised  
Contract  
distributed at  
Budget Committee  
Meeting on  
1-22-08

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experience and education, possesses the requisite skills to perform such services,

WHEREAS, the PROFESSIONAL SERVICE PROVIDER, agrees to perform said  
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- 6) Be available in the specific unit providing guidance for the treatment milieu.
- 7) Provide a method of contact for off hour consultation for emergency issues with a response time of thirty minutes or less.
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**SECTION TWO**  
**PAYMENT**

The BOARD will pay the PROFESSIONAL SERVICE PROVIDER hereunder the sum of thirty seven dollars and 50/100 (\$37.50) per hour worked during the term of this contract not to exceed the twelve (12) month term amount not to exceed an annual amount of \$117,000; such payment to be made bi-monthly during the term of this agreement.

The parties understand and agree that the BOARD shall not provide the PROFESSIONAL SERVICE PROVIDER with any of the benefits, whatsoever, afforded to the employees of Macomb County JJC.

FURTHER, both parties understand that the PROFESSIONAL SERVICE PROVIDER provides a contract service and is not a member of any bargaining unit representing employees in negotiations with the BOARD.

The PROFESSIONAL SERVICE PROVIDER will visit the Facility sixty (60) hours per week based on need and mutual agreement with the Director.

### **SECTION THREE** **SUPPLIES**

The Facility hereby agrees to assume responsibility for the furnishing of all necessary supplies, paper products and equipment as well as all necessary clerical support.

### **SECTION FOUR** **RELATIONSHIP OF PARTIES**

The parties intend that in performing the services delineated in the Agreement the PROFESSIONAL SERVICE PROVIDER is acting as an independent contractor; and that the PROFESSIONAL SERVICE PROVIDER will perform such services in accordance with current methods and practices of his/her profession.

### **SECTION FIVE** **EVALUATION OF SERVICES**

The Director or designee will evaluate both the quantity and quality of services by the PROFESSIONAL SERVICE PROVIDER. During any subsequent contract agreements, if both parties have agreed to an extension of the contract, such evaluation will be conducted annually. A report will be prepared by the Director at the conclusion of said evaluation and submitted to the Board.

### **SECTION SIX** **PROFESSIONAL LIABILITY INSURANCE**

The contractor hereby agrees to purchase and maintain in force, throughout the term of this agreement, or any extension hereof, a policy of professional liability insurance in the amount of one million dollars (\$1,000,000). Such insurance shall name Macomb County and the Juvenile Justice Center as additional insured. Evidence of such insurance will be in the form of a certificate of insurance which shall provide for twenty days notice of material change of cancellation to the Director of Risk Management and Safety, c/o Macomb County Juvenile Justice Center.

NOTE: For Professional Liability Insurance:

- A. Motor Vehicle Liability Insurance including Michigan No-Fault coverage for all hired and leased vehicles, owned and non-owned autos with the minimum limits of one million dollars, \$1,000,000 as a combined single limit for each occurrence for bodily injury and property damage.

- B. Michigan Workers' Compensation Insurance at the statutory limits and/or proof of Health/Hospitalization Insurance.
- C. The Professional Service Provider, Sound Counseling, shall name the County of Macomb as an additional insured on its General Liability Policy and submit a copy of the certificate of insurance to Risk Management of Macomb County.

#### **SECTION SEVEN**

#### **INDEMNIFICATION AGREEMENT**

Sound Counseling agrees to indemnify and hold harmless Macomb County and the Macomb County Juvenile Justice Center from any claims or demands including the costs, expenses and reasonable attorney fees on account thereof that may be made by anyone for injuries to person or damage to property arising out of the acts or omissions of the Contractor relating to said contractor's services and not resulting from the sole negligence of Macomb County, the Macomb County Juvenile Justice Center (JJC), or its commissioners, officers, employees or agents.

#### **SECTION EIGHT**

#### **ACCESS TO BOOKS AND RECORDS**

The books, records and documents of the PROFESSIONAL SERVICE PROVIDER pertaining to this Agreement shall be made accessible, upon written notice, for inspection by the Comptroller General of the United States, the Secretary of Health and Human Services and their authorized representatives until the expiration of four (4) years after the services hereunder are furnished.

#### **SECTION NINE**

#### **TERMINATION OF CONTRACT**

The parties acknowledge and agree that in the event of the death or revocation of licensure of the undersigned PROFESSIONAL SERVICE PROVIDER, Sound Counseling, that this Agreement shall automatically terminate upon the occurrence of either such event. Upon such termination, the PROFESSIONAL SERVICE PROVIDER shall be paid, under the terms hereof, to the date of said termination.

**SECTION TEN**  
**DURATION**

The parties hereto understand and agree that this Agreement shall terminate December 31, 2008. Further, both parties agree that this Agreement may be extended on a month-by-month basis as necessary. Either party hereto may exercise the prerogative to terminate the Agreement by thirty (30) days written notification.

In order to assure the quality and timeliness of services furnished by outside resources, the facility assumes responsibility to utilize only those outside resources that are professional, competent, and that furnish services promptly and accurately.

**SECTION ELEVEN**  
**CRIMINAL BACKGROUND CHECK**

Sound Counseling, PROFESSIONAL SERVICE PROVIDER, hereby agrees to comply with the State requirements for clearance from completion of a criminal background check.

\_\_\_\_\_  
Charles Seidelman  
Macomb County  
Juvenile Justice Center

\_\_\_\_\_  
Robert Schumann  
Sound Counseling

DATE: \_\_\_\_\_

# *Michigan Department of Labor & Economic Growth*

## *Filing Endorsement*

*This is to Certify that the RESTATED ARTICLES OF INCORPORATION - PROFIT  
for*

*SOUND COUNSELING, P.C.*

*ID NUMBER: 00203P*

*received by facsimile transmission on December 6, 2007 is hereby endorsed  
Filed on December 7, 2007 by the Administrator.*

*The document is effective on the date filed, unless a  
subsequent effective date within 90 days after  
received date is stated in the document.*



*In testimony whereof, I have hereunto set my  
hand and affixed the Seal of the Department,  
in the City of Lansing, this 7TH day  
of December, 2007.*

*, Director*

*Bureau of Commercial Services*

BCSCD-5109 (Rev. 12/06)

MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH BUREAU OF COMMERCIAL SERVICES										
Date Received	(FOR BUREAU USE ONLY)									
This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the documents.										
<table border="1"> <tr> <td colspan="3">Name</td> </tr> <tr> <td colspan="3">Address 7063 Hollywood Blvd. Suite 100</td> </tr> <tr> <td>City Los Angeles, CA 90028</td> <td>State</td> <td>ZIP Code</td> </tr> </table>		Name			Address 7063 Hollywood Blvd. Suite 100			City Los Angeles, CA 90028	State	ZIP Code
Name										
Address 7063 Hollywood Blvd. Suite 100										
City Los Angeles, CA 90028	State	ZIP Code								
Effective Date:										

Document will be returned to the name and address you enter above.  
If left blank document will be mailed to the registered office.

## RESTATED ARTICLES OF INCORPORATION

For use by Domestic Profit Corporations  
(Please read information and instructions on the last page)

Pursuant to the provisions of Act 284, Public Acts of 1972, the undersigned corporation executes the following Articles:

1. The present name of the corporation is:	Sound Counseling, Inc.
2. The identification number assigned by the Bureau is:	00203P
3. All former names of the corporation are:	
4. The date of filing the original Articles of Incorporation was:	10-9-2006

The following Restated Articles of Incorporation supersede the Articles of Incorporation as amended and shall be the Articles of Incorporation for the corporation and are filed for the purpose of changing from a Business Corporation subject to Act 284, P.A. of 1972, as amended to a Professional Service Corporation subject to Act 192, P.A. of 1962, as amended.

### ARTICLE I

The name of the corporation is:
Sound Counseling, P.C.

### ARTICLE II

The corporation is organized for the sole and specific purpose of rendering the following professional service(s):
Mental Health Counseling
Licensed Professional Counselors (LPC)

808/00-4104 (Rev. 12/05)

### ARTICLE III

The total authorized shares:

Common Shares 60,000 Preferred shares \_\_\_\_\_

A statement of all or any of the relative rights, preferences and limitations of the shares of each class is as follows:

### ARTICLE IV

1. The address of the registered office is:

34094 Flower Hill, Fraser , Michigan 48026  
(Street Address) (City) (ZIP Code)

2. The mailing address of the registered office, if different than above:

\_\_\_\_\_, Michigan \_\_\_\_\_  
(Street Address or P.O. Box) (City) (ZIP Code)

3. The name of the resident agent is: Robert Schumann

### ARTICLE V (Optional. Delete if not applicable)

When a compromise or arrangement or a plan of reorganization of this corporation is proposed between this corporation and its creditors or any class of them or between this corporation and its shareholders or any class of them, a court of equity jurisdiction within the state, on application of this corporation or of a creditor or shareholder thereof, or an application of a receiver appointed for the corporation, may order a meeting of the creditors or class of creditors or of the shareholders or class of shareholders to be affected by the proposed compromise or arrangement or reorganization, to be summoned in such manner as the court directs. If a majority in number representing 3/4 in value of the creditors or class of creditors, or of the shareholders or class of shareholders to be affected by the proposed compromise or arrangement or a reorganization, agree to a compromise or arrangement or a reorganization of this corporation as a consequence of the compromise or arrangement, the compromise or arrangement and the reorganization, if sanctioned by the court to which the application has been made, shall be binding on all the creditors or class of creditors, or on all the shareholders or class of shareholders and also on this corporation.

### ARTICLE VI (Optional. Delete if not applicable)

Any action required or permitted by the Act to be taken at an annual or special meeting of shareholders may be taken without a meeting, without prior notice, and without a vote, if consents in writing, setting forth the action so taken, are signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. A written consent shall bear the date of signature of the shareholder who signs the consent. Written consents are not effective to take corporate action unless within 60 days after the record date for determining shareholders entitled to express consent to or to dissent from a proposal without a meeting, written consents dated not more than 10 days before the record date and signed by a sufficient number of shareholders to take the action are delivered to the corporation. Delivery shall be to the corporation's registered office, its principal place of business, or an officer or agent of the corporation having custody of the minutes of the proceedings of its shareholders. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to shareholders who would have been entitled to notice of the shareholder meeting if the action had been taken at a meeting and who have not consented to the action in writing. An electronic transmission consenting to an action must comply with Section 407(3).

BCA/CD-510a (Rev. 10/95)

ARTICLE VII

This corporation fully complies with the Professional Service Corporation Act. All shareholders are duly licensed or otherwise legally authorized to render one or more of the professional service(s) for which this corporation is organized unless otherwise provided in Section 4 of the Act.

5. COMPLETE SECTION (a) IF THE RESTATED ARTICLES WERE ADOPTED BY THE UNANIMOUS CONSENT OF THE INCORPORATOR(S) BEFORE THE FIRST MEETING OF THE BOARD OF DIRECTORS; OTHERWISE, COMPLETE SECTION (b). DO NOT COMPLETE BOTH.

a. ☐ These Restated Articles of Incorporation were duly adopted on the \_\_\_\_\_ day of \_\_\_\_\_, in accordance with the provisions of Section 642 of the Act by the unanimous consent of the incorporator(s) before the first meeting of the Board of Directors.  
Signed this \_\_\_\_\_ day of \_\_\_\_\_

(Signatures of Incorporators; Type or Print Name Under Each Signature)

b. ☒ These Restated Articles of Incorporation were duly adopted on the 29<sup>th</sup> day of November, 2007, in accordance with the provisions of Section 642 of the Act and: (check one of the following)  
☒ were duly adopted by the shareholders. The necessary number of shares as required by statute were voted in favor of these Restated Articles.  
☐ were duly adopted by the written consent of the shareholders having not less than the minimum number of votes required by statute in accordance with Section 407(1) of the Act. Written notice to shareholders who have not consented in writing has been given. (Note: Written consent by less than all of the shareholders is permitted only if such provision appears in the Articles of Incorporation.)  
☐ were duly adopted by the written consent of all the shareholders entitled to vote in accordance with section 407(2) of the Act.  
☐ by consents given by electronic transmissions in accordance with Section 407(3).

Signed this 29 day of November, 2007

by Robert Schumann  
(Signature of an authorized officer or agent)

Robert Schumann, President

(Type or Print Name)

# **RECYCLABLE PAPER**

RESOLUTION NO. \_\_\_\_\_ FULL BOARD MEETING DATE: \_\_\_\_\_  
AGENDA ITEM: \_\_\_\_\_

**MACOMB COUNTY, MICHIGAN**

**RESOLUTION TO:**

PROTECT THE FUNDAMENTAL RIGHT OF VOTING,

CONTINUE THE POLICY OF MAKING THE MACOMB COUNTY ABSENT BALLOT APPLICATION PROCESS UNIFORM,

ADVANCE THE PUBLIC INTEREST OF INCREASING MACOMB COUNTY'S CLOUT,

AND PROVIDE SENIOR CITIZENS AN EQUAL OPPORTUNITY TO APPLY FOR AN ABSENT BALLOT REGARDLESS OF WHERE IN THE COUNTY THEY LIVE,

BY DIRECTING THE COUNTY CLERK TO MAIL AN "APPLICATION FOR ABSENT VOTER'S BALLOT FORM" TO MACOMB COUNTY REGISTERED VOTERS AGE 60 AND OVER FOR THE 2008 AUGUST AND NOVEMBER ELECTIONS, AT A TOTAL COST NOT TO EXCEED \$60,000;

EXCEPT, AV APPLICATION FORMS WOULD NOT BE SENT TO SENIOR CITIZEN REGISTERED VOTERS WHO ARE ALREADY ON THE PERMANENT AV LIST OR WHOSE LOCAL CLERK AUTOMATICALLY DOES MAIL AV APPLICATION FORMS TO ALL VOTERS AGE 60 AND OVER.

FURTHERMORE, \$17,519 WILL BE NECESSARY IN THE 2008 CLERK/REGISTER OF DEEDS BUDGET FOR THIS PURPOSE. THE CLERK/ REGISTER OF DEEDS HAS LAPSED \$17,519 FROM THE 2007 SPECIAL PROJECTS ACCOUNT AND REQUESTS FUNDS FOR THIS RESOLUTION BE ALLOCATED OUT OF THE 2008 CONTINGENCY ACCOUNT.

INTRODUCED BY: COMMISSIONER DON BROWN, CHAIRPERSON  
BUDGET COMMITTEE

COMMITTEE/MEETING DATE:  
BUDGET 01-22-08



# BOARD OF COMMISSIONERS

1 S. Main St., 9th Floor  
Mount Clemens, Michigan 48043  
586-469-5125 FAX 586-469-5993  
macombcountymi.gov/boardofcommissioners

TO: CARMELLA SABAUGH, COUNTY CLERK/REGISTER OF DEEDS

FROM: DON BROWN, CHAIR *DB*  
BUDGET COMMITTEE

DATE: DECEMBER 7, 2007

RE: AGENDA ITEM FOR MAILING AV APPLICATION FORMS TO SENIORS

Please be advised that due to the length of the Budget Committee meeting agenda on December 11<sup>th</sup> and due to procedural questions regarding your agenda item, it will not appear on the agenda.

I will place this issue on the Budget Committee meeting agenda on January 22, 2008. Please provide the committee reporter with an updated resolution sheet and background information by or before Monday, January 14, 2008.

FILED  
07 DEC 10 PM 12:16  
CLERK  
MACOMB COUNTY  
MT. CLEMENS, MICHIGAN

## MACOMB COUNTY BOARD OF COMMISSIONERS

Andrey Duzyj - District 1  
Marvin E. Sauger - District 2  
Phillip A. DiMaria - District 3  
Jon M. Switalski - District 4  
Susan L. Doherty - District 5

Joan Flynn - District 6  
Sue Rocca - District 7  
David Flynn - District 8  
Robert Mijac - District 9  
Philis DeSaele - District 10

Ed Szczepanski - District 11  
Peter J. Lund - District 12  
Don Brown - District 13  
Brian Brdak - District 14  
Keith Rengert - District 15

William A. Crouchman  
District 23  
Chairman

Dana Camphous-Peterson  
District 18  
Vice-Chair

Leonard Haggerty  
District 21  
Sergeant-At-Arms

Carey Torrice - District 16  
Ed Bruley - District 17  
Paul Gielegghem - District 19  
Kathy Tocco - District 20

Betty Slinde - District 22  
Sarah Roberts - District 24  
Kathy D. Vosburg - District 25  
Leon Drolet - District 26

## BACKGROUND

The Board of Commissioners adopted a similar resolution to benefit Macomb County seniors in September 2006 on a bipartisan vote. If approved, the county clerk would again mail absent voter application forms (not ballots) to seniors who are allowed by law to receive an absent voter ballot. The seniors would return the application forms directly to their local clerks and not to the county clerk. The local clerks would then mail and process the actual ballots.

There are several reasons this resolution should be passed. First, the practice is condoned by the Michigan Secretary of State, and is expressly allowed on the Information for Election Administrators, Michigan Qualified Voter File News You Can Use Election News Archive, on the Secretary of State web site. According to this web site, "An election official may mass mail blank absentee voter ballot applications to eligible absentee voters in advance of elections at his or her discretion; such mailings are not required by law. Mail lists used by clerks to distribute blank absentee voter ballots applications forms must be equitably compiled."

Second, many Macomb County voters have come to expect this service, which is a convenience to them. By automatically mailing out the absentee ballot applications, voters are notified of upcoming elections, and are encouraged to vote.

Third, although the absentee voter ballot application is available on the county clerk's web site, many of the persons who qualify for an absentee ballot will not download the application from the web site or don't have Internet access.

Fourth, the county clerk believes there will be a large number of voters that will be routinely expecting an application prior to the election and will not contact the Clerk's office to request an application in a time frame that will provide for adequate mailing time. These voters will lose their voting right at no fault of their own.

Fifth, in many communities, non-city groups or organizations have stepped in and have assumed the responsibility of mailing absentee voter ballot applications to registered voters. This mailing in some jurisdictions, but not others, may result in disproportionate voter participation on significant ballot questions which cross jurisdictional boundaries.

Sixth, in order for Macomb County to be fully represented at the state and national levels, it is important that as many Macomb County voters vote as possible. When Macomb County voter turnout is lower than other counties, then Macomb County does not have as much clout as we could have. In the 2006 General Election, 40 counties had higher voter turnout than Macomb County. Macomb County voter turnout was 54.8%, while Oakland County voter turnout was 59.6% and Kent County voter turnout was 60.0%. As an example, Kent County has approximately 177,000 fewer registered voters than Macomb County, but because of higher voter turn out, Macomb County cast only 76,000 more actual votes than Kent County.

This means Macomb County voters do not have as much influence as we could have. By simply increasing voter turnout, we can increase Macomb County's clout. Making Macomb County's

voice heard was important in last year's governor election and is even more important for the 2008 presidential election, regardless of one's political affiliation.

This resolution will clearly help increase our county's clout. The Detroit Free Press reported that, "As a result [of the Board's 2006 AV resolution], votes among senior citizens rose 25% in the November 2006 election compared with four years earlier, records show." (Detroit Free Press, August 7, 2007.)

Without this resolution, Macomb County senior citizens may not have an equal opportunity to get an absent voter application form. In the last general election, all Oakland County seniors age 60 and over received absent voter application forms from their clerks. However, in Macomb County, only seniors living in 11 of the 25 communities would have received absent voter application forms. This Board properly questioned why Oakland County seniors should be treated better than Macomb County seniors? Macomb County seniors would not have had the same access to absent voter applications as Oakland County seniors if our Board of Commissioners had not passed a resolution to give our seniors an equal opportunity.

Since only some Macomb County local clerks mail absent voter application forms to all seniors in their communities, the seniors in the following communities would likely be excluded again from automatically getting an absent voter application form and would not have had the same opportunity to get an AV application as seniors living elsewhere in the county:

Center Line	New Baltimore	St. Clair Shores
Chesterfield Township	Ray Township	Utica
Eastpointe	Roseville	Warren
Fraser	Shelby Township	Washington Township
Mount Clemens		

Depending on what local clerks do, it's possible that seniors in even more communities could be excluded this year.

This resolution is even more important today than it was in 2006 because efforts are underway to reduce or limit voter turnout. A lawsuit is pending at the Michigan Court of Appeals challenging this Board's prior bipartisan resolution to mail AV applications to seniors, despite the well-reasoned circuit court opinion of Judge David Viviano. Macomb County Corporation Counsel is doing an excellent job of defending this case. Also, a photo ID requirement was enacted this year, which the Justice Department's Voting Rights Chief admitted will "disproportionately" hurt senior citizens. In response to these efforts to limit senior citizens' voter access, this Board has an opportunity to fight for voters and fight to increase voter access and voter turnout.

There are two court cases relevant to this issue: one from Detroit and one from Macomb County. In what came as a shock to many clerks who have mailed absent voter application forms to seniors for years, the Michigan Court of Appeals ruled last month that a city or township clerk may not mail absent voter application forms to seniors without city council approval, unless the senior first requests the forms. In that case, the Detroit City Clerk processed application forms AND ballots. The county clerk does not process ballots. Also, the Detroit City Clerk included a

cover letter with each application. The county clerk does not send a cover letter. The Detroit City Clerk did not get approval from the Detroit City Council before doing the mailing. The court was also not made aware of the Secretary of State memos expressly authorizing such mass mailings. Fortunately, the Detroit case ruling does not apply to Boards of Commissioners or to county clerks. If no action is taken, thousands of Macomb County seniors who have received absent voter application forms for years may not receive one in the next presidential election if Macomb County local clerks do not seek municipal approval.

The good news is that we now have express legal authorization for this resolution. Macomb County Circuit Court Judge David Viviano protected the rights of Macomb County senior citizens by expressly ruling that the absent voter application form mailing done by the Macomb County Clerk per this Board's resolution was proper.

In fact, Judge Viviano went so far as to opine that a resolution by this board to provide an equal opportunity to all Macomb County senior citizens not only was proper, but could not even be challenged:

"Even if plaintiffs had challenged the resolution, such a challenge would be difficult to sustain because, under the separation of powers doctrine, 'legislative power must be insulated from judicial interference'... As a result, 'the judiciary will not interfere with discretionary actions of a legislative body such as [a board of commissioners]' unless the action 'is so capricious or arbitrary as to evidence a total failure to exercise discretion...'” Fleming v. Sabaugh, Macomb County Circuit Court Case No. 2006-4256-AW, p. 8, footnote, July 31, 2007.

Even one of the plaintiffs who initially sued our county clerk over this mailing admitted his action was wrong and now agrees that “increasing voter turnout is in everyone’s interest...” See “Sabaugh declares ‘victory for senior citizens’”, Macomb Daily, Aug. 1, 2007, page 7A.

It is important to note that the county will not duplicate absent voter application form mailings done by municipalities. Just like the 2006 Board resolution, this resolution says the county clerk will not mail to seniors whose local clerks already will mail seniors in their municipalities absent voter application forms.

This resolution is also important because of the inconsistent secret “permanent AV list” kept in many communities. In some communities, every senior is automatically on the “permanent AV list.” In other communities a senior would have to request to be on the permanent AV list. But most seniors don’t even know the “permanent AV list” even exists! In many communities the permanent AV list is a secret list that only those with political connections know to get on. There is no law or rule for how to get on this secret list. There is no permanent AV list application form. This resolution will give all Macomb County seniors an equal opportunity to get an absent voter application form regardless of their political connections.

Some may argue that the county does not have the money to protect the voting rights of our seniors. It is understandable that at a time of budget cutting, one might question whether the county can afford up to \$60,000 to provide an equal opportunity to vote for our seniors.

The \$60,000 cost cited in this resolution is a maximum cost and the actual cost could be much lower. It is possible this resolution will cost the county nothing if local clerks decide to provide their seniors with an equal opportunity to get an absent voter application form. The cost quoted in the resolution would be the cost if no local clerks mail absent voter applications to their senior citizens and the county then had to do it all. The county clerk will strongly encourage local clerks to continue to provide this service to their senior voters. A similar resolution passed by the Board of Commissioners in 2006 only cost the county \$14,249.23. It is likely the actual cost of this resolution will be similar.

There is reason to believe local communities will pass resolutions authorizing their clerks to provide their senior citizens with an equal opportunity to cast an absent voter ballot. This would reduce the final cost of this resolution. For example, the City Councils of Auburn Hills, Birmingham, Farmington Hills, Oak Park, and Troy all passed resolutions in November authorizing their local clerks to mail absent voter application forms. Macomb County lead the way on this issue and the county clerk believes Macomb County municipalities will follow our lead and the Oakland County communities on this issue. See "Voting absentee just got harder," Detroit Free Press, Nov. 14, 2007.

Those who argue the county can't afford to give our seniors an equal opportunity to get an absent voter application form should recall that many of our county's seniors fought in wars to defend our Democracy and the right to vote. Many of our seniors marched for civil rights to protect our right to vote. The fundamental political right of voting is preservative of all rights and deserves to be a priority. What message would this Board send to our "Greatest Generation" of seniors if we have the chance to give all of our county's seniors an equal opportunity to vote and increase our county's clout, but fail to do so?



**OFFICE OF THE CITY CLERK**

ONE CITY SQUARE, SUITE 205  
WARREN, MI 48093-2393  
(586) 574-4557  
FAX (586) 574-4556  
[www.cityofwarren.org](http://www.cityofwarren.org)

December 7, 2007

TO: Macomb County Board of Commissioners  
FROM: Paul Wojno, Warren City Clerk  
RE: Absentee Voter Application Resolution

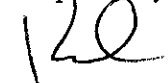
Dear Honorable Members:

I would like to submit this letter of support in regards to The Absentee Voter Application Resolution that you will be considering on December 12, 2007.

As a former legislator and now Warren City Clerk, I believe that we need to be supportive of progressive policy that enables our senior community to more easily participate in our elective process. A common denominator that all of us share as elected officials is our constituency. It is our responsibility to work together for the betterment of Macomb Senior Citizens. Many of them within our county have come to expect this service since the Board of Commissioners adopted a similar resolution in 2006. By mailing these absentee ballot applications, voters are notified of upcoming elections, and are encouraged to vote.

County Clerk Carmella Sabaugh continues to demonstrate her interest in working for the improvement of our election process. Please join me in supporting her recommendation of the adoption of this resolution. Additionally, I want to thank you in advance for your consideration of this request.

Respectfully,

  
Paul Wojno  
Warren City Clerk

FILED  
07 DEC 26 AM 11:30  
CLERK OF COURT  
MACOMB COUNTY  
MI

11-14-07

Detroit Free Press



# Voting absentee just got harder

*Applications no  
longer automatic*

## STATEWIDE

By KATHLEEN GRAY  
FREE PRESS STAFF WRITER

Voters who use absentee ballots will have to make an extra effort to get their ballots for next year's elections, including the presidential election in November.

Clerks can no longer automatically mail applications to senior citizens and former absentee-ballot voters, under an appeals court ruling late last month. The ruling upheld a lower court decision in a case stemming from Detroit's 2005 election.

The ruling, however, left some clerks puzzled about whether they can use lists of voters who have asked to be

Some local  
clerks are  
worried  
seniors will  
fall through  
the cracks.

placed on a permanent absentee-ballot request list. Several clerks said Tuesday that they fear some voters used to getting the applications — mostly senior citizens — will fall through the cracks.

"We're trying to encourage people to vote, and this is inhibiting it," said Macomb County Clerk Carmella Saugh. "Clerks will have to send out a letter asking people if they want to get on a permanent list, and that's just wasteful."

Even if residents say they want to be on such a list, it's not clear whether it would be legal.

Some clerks automatically send applications to any resident older than 60. Others send the applications to people who have voted by absentee ballot in previous elections or who request to be on the permanent list.

"When the law came out to allow people over the age of 60 to vote absentee, our City Council voted 25 years ago to send out applications to all our senior citizens," said Farmington Hills City Clerk Kathy Dornan, who sends out 14,500 applications each election.

As a result, Dornan said her

See **BALLOT**, 5B

## BALLOT | Absentee voting gets harder

From Page 1B

staff of six employees is going to be inundated with calls from voters who want absentee ballots, which will have to be mailed one at a time, instead of at a much cheaper and more convenient bulk mail rate.

In Shelby Township, Clerk Terri Kowal, who has a list of about 6,000 people who have requested absentee ballot applications, said she finds it ironic that as a candidate, she could use her campaign-finance money to send out absentee ballot applications, but she can't as the local clerk.

Groups such as the League of Women Voters, the National Association for the Advancement of Colored People, the Demo-

cratic and Republican parties, or candidates could take over the duties of sending out absentee applications.

But Dornan worries that those groups will target voters who will support their preferred candidates, leaving others without ballot applications. (The League of Women Voters does not endorse candidates.)

On Monday, the Troy City Council voted to allow the clerk's office to continue automatically mailing absentee voter ballot applications, despite the court ruling.

"We believe in local control," said City Clerk Tonni Bartholomew, adding that she's concerned that if the 14,000 applications don't get mailed, fewer senior citizens will vote.

But pollsters said don't underestimate the persistence of senior citizen voters.

"People who want to vote are very smart and will figure out a way to get the ballot," said political consultant Tom Shields of the Marketing Resource Group of Lansing. "Senior citizens take great pride in never missing an election."

There also is legislation that has passed the House of Representatives in July that would allow clerks to automatically mail applications to eligible voters. But the measure hasn't been taken up in the state Senate.

Contact KATHLEEN GRAY at 313-223-4407 or gray@freepress.com. Staff writer Gina Damron contributed to this report.



**SABAUGH**  
Said she  
believes lawsuit  
was political.

# Sabaugh declares 'victory for senior citizens'

By Stephen Bittsoll  
Macomb Daily Staff Writer

Circuit Judge David Viviano dismissed a lawsuit against Macomb County Clerk Carmella Sabaugh on Monday over her decision to mail absentee voter applications to senior citizens in Macomb County ahead of the 2006 election. State Republican activists brought the lawsuit. "It's a victory for senior citizens,"

## ■ Republican activists sued clerk for mailing absentee applications.

Sabaugh told The Macomb Daily. In September 2006, the Macomb County Board of Commissioners passed a resolution directing the county clerk to

send absentee voter application forms to everyone, age 60 and older, who did not already receive them. Thirteen of 24 communities in the county do not send them unless requested.

Greg Fleming, William Susick, Edward F. Cook and Max Fellsman challenged the mailing, claiming it violated the Purity of Elections and Equal Protection clauses of

See BALLOTS, Page 7A

The Macomb Daily Page 7A

## BALLOTS: Fellsman now says he favors high turnout

Continued from Page 1A

the Michigan Constitution, and that their right to vote was diluted. Viviano ruled against the plaintiffs on all three points. Fellsman had already dropped out of the lawsuit in April, telling The Macomb Daily that it was misguided.

Plaintiff attorney Edward Doster would not comment on the decision, only saying he hadn't seen it. Fleming told The Macomb Daily that since the lawsuit had prompted the state legislators to look at the way absentee ballot were sent out, some good had already come of it. The other plaintiffs could not be reached for comment.

"I think they can appeal," Sabaugh said, "but I haven't heard anything."

Sabaugh believes the lawsuit was political, since all seniors in Oakland County were mailed AV application forms also, but the

GOP did not sue Oakland County clerks.

Plaintiffs pointed out that in Oakland County, local clerks took it upon themselves to mail out the forms, which is permitted, but maintained that the county clerk cannot.

"In Oakland County, all their (local) clerks send them," Sabaugh said. In Macomb County, only 11 of 24 do. Sabaugh said she wishes they would.

"We always thought that we could send them because we got approval from the Board of Commissioners," Sabaugh said. "I was glad Viviano found that we could mail them out."

"What I could never understand," Sabaugh said, "is they (apparently) felt that if more people voted, the Democrats would win."

Fellsman said he now agrees with Sabaugh that increasing voter turnout is in everyone's interest, not just the Democrats.

8-1-07

# Republican withdraws from lawsuit against county clerk

■ **Activists claim Sabaugh was wrong to send absentee ballots to seniors.**

**By Chad Selweski**  
Macomb Daily Staff Writer

A plaintiff in a lawsuit filed by Republicans challenging Macomb County Clerk Carmella Sabaugh's absentee voting policy has withdrawn from the case, calling it misguided and "a losing battle."

Max Fellsman of Clinton Township was one of three Macomb County Republican activists who filed the lawsuit before the November 2006 election to block Sabaugh from sending unsolicited absentee ballot applications to 50,000 senior citizens across the county. The case continues today in Macomb Circuit Court with the GOP arguing that Sabaugh overstepped her bounds.

Fellsman, a Republican political

consultant, said he joined the lawsuit because he originally suspected Sabaugh and Democrats were trying to "stuff the ballot box." At the time, the county clerk was the Democratic nominee running for secretary of state.



**SABAUGH**

"I always thought it was definitely political."

But Fellsman said this week that the GOP tactic backfired, creating a backlash and in particular a "lot of flak" from senior voters. He now agrees with Sabaugh's view that mass mailings of absentee ballot applications boosts voter turnout, and he rejects assertions that high turnouts hurt the Republican Party.

"I don't buy that argument. We've got to compete for those (added) voters," said Fellsman, 60. "We must encourage voter turnout, both in the pri-

maries and in the general election." Michigan Republican Party officials declined to comment about Fellsman's departure from the lawsuit.

"We are aware of this, and the case is moving forward," said Nicole Kaminski, a GOP spokeswoman.

The Republicans argue that Sabaugh has no authority under state law to mail ballot applications. They claim the practice sets a dangerous precedent that could distort elections.

The other two Macomb plaintiffs, Greg Fleming of Eastpointe and William Susick of Clinton Township, have apparently chosen to continue pursuing the case. The original plaintiffs were chosen by the state party after a concerted effort to recruit Macomb voters to put their name on the lawsuit.

Sabaugh was pleased to learn that the GOP had experienced a defection in the ranks.

"That's really interesting. I'm glad he finally saw the light," she said. "I always thought it was definitely political. And I always

thought everyone should get an absentee ballot application."

At issue is Sabaugh's decision to send ballot applications to seniors in the 11 Macomb communities where local clerks do not conduct such mailings, except upon request of the voter.

A circuit court ruling in October rejected the GOP's bid for an injunction preventing the mailing. The Republicans appealed to the Michigan Court of Appeals, but last month that motion was dismissed by the appellate court as a moot point with the November election concluded.

The court deferred to the circuit court, where a pre-trial hearing is scheduled for today in Judge David Viviano's court.

Sabaugh continues the practice of mailing unsolicited applications. She mailed 15,000 applications in the four Macomb communities where she oversees school elections May 8. She plans to do the same in advance of the 2008 primary and general elections.

"If the courts don't stop us," she said, "I'll be happy to do it."

# Judge correct to kick lawsuit against Sabaugh

Friday, August 3, 2007

The Macomb Daily Page 7A

**A** Macomb County Circuit Court judge wisely dismissed this week a frivolous lawsuit brought by a handful of Republicans to embarrass Macomb County Clerk Carmella Sabaugh.

The lawsuit asked the court to prevent Sabaugh from mailing absentee ballot applications to all senior citizens 60 and older in 14 communities in the county.

The Republicans who brought the lawsuit claimed that Sabaugh, as a county clerk, lacked the legal standing to mail the applications, and that mailing the applications would invite voter fraud.

They were wrong on both counts, and this week Judge David Viviano dismissed the allegations.

Sabaugh was not conducting a mass mailing of actual ballots. She mailed applications for ballots to about 50,000 senior citizens, regardless of their political affiliation or lack of political affiliation. If a senior chose to avail himself or herself of the application, it was to be mailed to their local municipal clerk, who would then mail out a ballot. Without the return of a valid application, no ballot was mailed.

This was no invitation to voter fraud, as those who filed the lawsuit claimed.

The men who filed the lawsuit last October should have noted that the Michigan Secretary of State's Office said in September that Sabaugh could mail the applications. Secretary of State Terri Lynn Land, a Republican, was being challenged by Sabaugh when she made that ruling. How embarrassing for the state party that one of its own — the chief elections officer in the state — signed off on the mailings before the lawsuit was filed.

The lawsuit might have had merit if Sabaugh conducted mass mailings of actual ballots. However, Sabaugh only mailed applications. Municipal clerks in 10 Macomb County communities already conduct mass mailings of absentee voter applications. The clerks in many Oakland County communities do the same.

Ten municipal clerks in Macomb County and clerks across Oakland County have conducted the same practice for a number of years, but the state GOP Party somehow seemed to leave those clerks off its list for lawsuits.

The Macomb County Board of Commissioners approved Sabaugh's plan before she mailed the applications, yet the lawsuit targeted only Sabaugh, the Democratic candidate for secretary of state at that time. The lawsuit did not name as a defendant the board that approved and funded the program.

When the lawsuit was filed, one of the plaintiffs, a candidate for state representative in the November 2006 election, told The Macomb Daily the Republican Party asked him to sign on to the lawsuit. The party actually had to go fishing for someone in Macomb County who allegedly was outraged by the mailings. Another plaintiff was an Ingham County resident over 60. His lawyers tried to argue that it was unfair that he didn't receive an automatic ballot application. What that complaint had to do with Macomb County was a clear grasping at straws.

Fortunately Viviano, using established state law, recognized this lawsuit for the weak political ploy it was and tossed it out of court.

Romeo Observer  
Wed, August 8, 2007

## Macomb County clerk wins court battle for AV forms

by CHRIS GRAY  
Observer Staff Writer

Macomb County Clerk Carmella Sabaugh will continue to mail absentee voter applications after a victory in circuit court.

On July 30, Macomb County District Court Judge David Viviano threw out a lawsuit brought by the Republican Party that sought to block Sabaugh from mailing the applications to senior citizens throughout the county.

"The judge said it was wrong for Republicans to try and stop senior citizens from getting an absent voter application form," she said in a written statement. "This is a victory for senior citizens."

The Michigan Republican Party had recruited plaintiffs to sue Sabaugh to prevent the forms from being sent, though they did not sue Oakland County clerks despite their sending out absentee voter applications to their residents. In a prior court battle, the party succeeded in requiring a photo identification when voting.

In fall of 2006, the County Board of Commissioners passed a resolution to ensure senior citizens received an equal opportunity to vote absentee regardless of where they live in the county. With this move, Sabaugh mailed applications to seniors who

may not have otherwise received them.

Absentee voter applications are important to the voting process, said Bruce Township Clerk Karol Regius. She said it is part of a clerk's responsibility to have as much involvement as possible with voting.

"Every clerk that I know of sends absentee applications to their seniors," she said. "It's our way of encouraging people to vote."

Approximately 1,400 applications are sent out by Bruce Township for each election, whether it be for schools or primaries.

"They're very good about voting," she said of seniors. "They take it seriously, and a large population of our seniors are consistent voters."

"If they don't receive it, they call us and ask where it is," she added.

Absentee voter applications are sent out prior to elections, and if the individual is interested in voting they fill it out and send it back. Once received, the clerk then sends out ballots, which are in turn sent back by a certain deadline, making it easier for people who can't necessarily go to the polls and vote.

"It's a convenience, government is supposed to make life easier, not harder," she said. "That's what the government is supposed to do."

Item #8

Budget 1-22-08

Distributed by  
Commissioner DeSaulle

**MICHIGAN ELECTION LAW (EXCERPT)**  
**Act 116 of 1954**

**168.759 Application to vote absentee; time; manner; form; signature of applicant; false statement as misdemeanor.**

Sec. 759.

(1) At any time during the 75 days before a primary or special primary, but not later than 2 p.m. of the Saturday immediately before the primary or special primary, an elector who qualifies to vote as an absent voter, as defined in section 758, may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the elector is registered. An application received before a primary or special primary may be for either that primary only, or for that primary and the election that follows.

(2) Except as otherwise provided in subsection (1), at anytime during the 75 days before an election, but not later than 2 p.m. of the Saturday before the election, an elector who qualifies to vote as an absent voter, as defined in section 758, may apply for an absent voter ballot. The elector shall apply in person or by mail with the clerk of the township, city, or village in which the voter is registered.

(3) An application for an absent voter ballot under this section may be made in any of the following ways:

(a) By a written request signed by the voter stating the statutory grounds for making the application.

(b) On an absent voter ballot application form provided for that purpose by the clerk of the city, township, or village.

(c) On a federal postcard application.

(4) An applicant for an absent voter ballot shall sign the application. A clerk or assistant clerk shall not deliver an absent voter ballot to an applicant who does not sign the application. A person other than the applicant; a member of the applicant's immediate family; a person residing in the applicant's household; a person whose job normally includes the handling of mail, but only during the course of his or her employment; a registered elector requested by the applicant; or a clerk, assistant of the clerk, or other authorized election official shall not be in possession of a signed absent voter ballot application. A registered elector who is requested by the applicant to return his or her absent voter ballot application shall sign the certificate on the absent voter ballot application.

(5) The clerk of the city, township, or village shall have absent voter ballot application forms available in the office of the clerk at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request. The absent voter ballot application shall be in substantially the following form:

"Application for absent voter ballot for:

☐ The primary or special primary election to be held on ..... , 19... .

☐ The election to be held on ..... , 19... .

(Check applicable election or elections)

I, ..... , a qualified and registered elector of the ..... precinct of the township of ..... or village of ..... or of the ..... ward of the city of ..... , in the county of ..... and state of Michigan, apply for an official ballot, or ballots, to be voted by me at the election or elections as requested in this application.

The statutory grounds on which I base my request are:

☐ I expect to be absent from the community in which I am registered for the entire time the polls are open on election day.

☐ I am physically unable to attend the polls without the assistance of another.

☐ I cannot attend the polls because of the tenets of my religion.

☐ I have been appointed an election precinct inspector in a precinct other than the precinct where I reside.

☐ I am 60 years of age or older.

☐ I cannot attend the polls because I am confined to jail awaiting arraignment or trial.

(Check applicable reason)

Send absent voter ballot to me at:

.....  
(Street No. or R.R.)

.....  
(Post Office) (State)

My registered address .....  
(Street No. or R.R.)

.....  
(Post Office) (State)

Date.....

I declare that the statements in this absent voter ballot application are true.

.....  
(Signature)

WARNING

A person making a false statement in this absent voter ballot application is guilty of a misdemeanor. It is a violation of Michigan election law for a person other than those listed in the instructions to return, offer to return, agree to return, or solicit to return your absent voter ballot application to the clerk. An assistant authorized by the clerk who receives absent voter ballot applications at a location other than the office of the clerk must have credentials signed by the clerk. Ask to see his or her credentials before entrusting your application with a person claiming to have the clerk's authorization to return your application.

**Certificate of Authorized Registered  
Elector Returning Absent Voter  
Ballot Application**

I certify that my name is \_\_\_\_\_, my address is \_\_\_\_\_, and my date of birth is \_\_\_\_\_; that I am delivering the absent voter ballot application of \_\_\_\_\_ at his or her request; that I did not solicit or request to return the application; that I have not made any markings on the application; that I have not altered the application in any way; that I have not influenced the applicant; and that I am aware that a false statement in this certificate is a violation of Michigan election law.

\_\_\_\_\_  
(Date) (Signature)"

(6) The following instructions for an applicant for an absent voter ballot shall be included with each application furnished an applicant:

**INSTRUCTIONS FOR APPLICANTS FOR ABSENT VOTER BALLOTS**

Step 1. After completely filling out the application, sign and date the application in the place designated. Your signature must appear on the application or you will not receive an absent voter ballot.

Step 2. Deliver the application by 1 of the following methods:

(a) Place the application in an envelope addressed to the appropriate clerk and place the necessary postage upon the return envelope and deposit it in the United States mail or with another public postal service, express mail service, parcel post service, or common carrier.

(b) Deliver the application personally to the office of the clerk, to the clerk, or to an authorized assistant of the clerk.

(c) In either (a) or (b), a member of the immediate family of the voter including a father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild or a person residing in the voter's household may mail or deliver the application to the clerk for the applicant.

(d) In the event an applicant cannot return the application in any of the above methods, the applicant may select any registered elector to return the application. The person returning the application must sign and return the certificate at the bottom of the application.

(7) A person who prints and distributes absent voter ballot applications shall print on the application the warning, certificate of authorized registered elector returning absent voter ballot application, and instructions required by this section.

(8) A person who makes a false statement in an absent voter ballot application is guilty of a misdemeanor. A person who forges a signature on an absent voter ballot application is guilty of a felony. A person who is not authorized in this act and who both distributes absent voter ballot applications to absent voters and returns those absent voter ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.

**History:** 1954, Act 116, Eff. June 1, 1955 ;— Am. 1958, Act 192, Eff. Sept. 13, 1958 ;— Am. 1959, Act 171, Eff. Mar. 19, 1960 ;— Am. 1962, Act 90, Imd. Eff. Apr. 30, 1962 ;— Am. 1963, Act 237, Eff. Sept. 6, 1963 ;— Am. 1965, Act 354, Eff. Mar. 31, 1966 ;— Am. 1974, Act 189, Imd. Eff. July 2, 1974 ;— Am. 1975, Act 178, Imd. Eff. July 25, 1975 ;— Am. 1980, Act 344, Imd. Eff. Dec. 23, 1980 ;— Am. 1982, Act 201, Eff. Jan. 1, 1983 ;— Am. 1995, Act 261, Eff. Mar. 28, 1996  
**Popular Name:** Election Code

STATE OF MICHIGAN  
COURT OF APPEALS

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MAUREEN D. TAYLOR,

Plaintiff-Appellee,

v

JACKIE CURRIE and the DETROIT ELECTION  
COMMISSION,

Defendants-Appellants,

and

MARINO TAYLOR,

Defendant.

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FOR PUBLICATION

October 25, 2007

9:00 a.m.

No. 269684

Wayne Circuit Court

LC No. 05-524513-AW

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MAUREEN D. TAYLOR,

Plaintiff-Appellee,

v

JACKIE CURRIE, DETROIT CITY CLERK, the  
DETROIT ELECTION COMMISSION,

Defendants-Appellants,

and

MARINO TAYLOR,

Defendant.

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No. 271559

Wayne Circuit Court

LC No. 05-524513-AW

Before: Smolenski, P.J., Whitbeck, C.J., and Kelly, J.

KELLY, J.

In these consolidated appeals arising from a declaratory action, defendants appeal as of right several trial court orders. In docket number 269684, defendants claim the trial court (1)

erred when it permanently enjoined defendants from mailing unsolicited applications for absent voter ballots to qualified voters, (2) improperly entered an order holding defendant Jackie Currie (Currie) in criminal contempt of court, and (3) lacked the authority to appoint monitors and co-receivers over the November 2005 election proceedings. In docket number 271559, defendants contend that the trial court erred in its determination that plaintiff was entitled to attorney fees associated with Currie's contempt proceedings. We affirm the trial court's permanent injunction against the mass mailing of unsolicited applications for absent voter ballots. We also affirm the trial court's ruling that plaintiff was entitled to attorney fees, but vacate the order awarding attorney fees and remand for recalculation of the award.

### I. Facts and Procedural History

2005 was a regularly scheduled election year in the city of Detroit's four-year cycle. Currie, who was the Detroit City Clerk and a member of the Detroit Elections Commission (the Commission), was a candidate for re-election. In prior election years, Currie mass mailed absent voter ballot applications to potential absentee voters. In addition to the application, Currie enclosed a cover letter, signed by her and referring to herself as "the City Clerk and Chairperson of the Election Commission."

Plaintiff Maureen D. Taylor, a candidate for the Detroit City Council, appeared on the ballot for the August 2, 2005 primary, but she did not obtain enough votes to qualify for the November 2005 general election. In August 2005, plaintiff sued Currie, the Commission, and Marino Taylor (Marino) alleging multiple election improprieties.<sup>1</sup> Plaintiff alleged that Marino was a false candidate wrongfully certified by the Commission to confuse voters and dilute plaintiff's votes. Plaintiff also alleged that Currie and the Commission improperly mailed approximately 150,000 applications for absent voter ballots. Plaintiff further claimed that the elections staff failed to properly process the submitted absent voter ballots. Plaintiff asserted that these irregularities prevented her from qualifying to appear on the general election ballot.

On August 26, 2005, plaintiff filed a motion for a preliminary injunction or temporary restraining order to prevent defendants from mailing approximately 150,000 applications for absent voter ballots, which were scheduled to be mailed on Monday, August 29, 2005. The trial court determined that Currie, as the Detroit City Clerk, was statutorily precluded from sending out unsolicited absentee ballot applications. Accordingly, the trial court granted plaintiff's motion and enjoined "the City of Detroit from using a bulk mailing and from allowing the unsolicited mailing of absentee voter ballot applications in the general election." The court gave the parties until 2:00 p.m. on Tuesday, September 6, 2005 to submit an order.

After learning that the mailing had nonetheless occurred, plaintiff moved for an order to show cause why defendants should not be held in contempt for violating the court's injunction. Plaintiff also asked the trial court to appoint a receiver over the Commission and order various

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<sup>1</sup> In April 2006, the parties stipulated to the dismissal of the claims against Marino. Because Marino did not participate in this appeal, we use "defendants" to refer to defendants Currie and the Commission.

other forms of relief. In response to plaintiff's motion, defendants argued that the court lacked authority to appoint a receiver over the office of City Clerk and that plaintiff was not entitled to the requested alternate forms of relief. Defendants argued that Michigan law provides sufficient safeguards and remedies to redress the allegations. Defendants also argued that, because the trial court never entered a written injunction prohibiting the mailing, there was no order to enforce through contempt proceedings.<sup>2</sup>

On September 28, 2005, the court granted plaintiff's request for a show cause hearing and secured Currie's presence for a contempt proceeding. After taking evidence and testimony, the trial court found that Currie had acted in contempt of the trial court's injunction against the mailing. The following day, the trial court conducted a hearing to determine the remedy for Currie's contempt. The trial court ultimately fined Currie \$250,<sup>3</sup> ordered a proposed plan for oversight of the November election by the Secretary of State and the Wayne County Clerk, and ordered the appointment of two monitors to conduct an investigation into the circumstances surrounding the mailing and review the handling of the absent voter ballots from the August primary.

Defendants filed for leave to appeal this order on October 24, 2005. This Court granted defendants motion for immediate consideration and ordered:

As to the imposition of a \$250 fine in the October 11, 2005, order of criminal contempt, the Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.

Pursuant to MCR 7.205(D)(2), in lieu of granting leave to appeal, the Court VACATES the remainder of the October 11, 2005 order because the contempt statute, MCL 600.1715, contains no authority for the additional penalties imposed, and the plaintiff has not provided any additional law allowing such penalties for criminal contempt. . . . Thus, to the extent that the penalties, aside from the fine, are predicated on the contempt statute, MCL 600.1715, they are null and void. The case is REMANDED to the circuit court for further proceedings consistent with this order. [*Taylor v Currie*, unpublished order of the Court of Appeals, entered October 28, 2005 (Docket No. 265982).]

In response to this order, plaintiff asked the trial court to enter a new temporary restraining order compelling defendants to comply with the plan for supervision of the election process described in the order of October 11, 2005. On October 28, 2005, the trial court entered a new temporary restraining order. The order enjoined defendants from "using clerks agents or assistants, including Ambassadors or Building Managers, to contact voters or to provide voter assistance unless first contacted by an individual voter." The order also barred the practice of

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<sup>2</sup> As a formality, the trial court signed a written preliminary injunction on October 3, 2005.

<sup>3</sup> At that time, this was the maximum fine that could be imposed under MCL 600.1715(1). The maximum fine has since been increased to \$7,500. See 2006 PA 544.

using building managers or third parties as clerk assistants for "the purpose of the delivery or receipt of absentee ballot applications or absentee ballots." Additionally, the order imposed several record keeping requirements concerning persons who assist voters in voting by absent voter ballot.

On November 3, 2005, the trial court issued a preliminary injunction incorporating the provisions of the temporary restraining order of October 28, 2005, and delineating the record keeping requirements for persons assisting voters with absent voter ballots. The order also appointed the previously selected monitors to investigate the circumstances surrounding the mass mailing, investigate the handling of absentee voter ballots from the primary election, and oversee compliance with the injunction.

The following day, the trial court held an unscheduled hearing concerning "allegations of violations of [the] preliminary injunction that was issued yesterday." After hearing testimony by two witnesses concerning alleged election improprieties, the trial court concluded that there was a violation of the temporary restraining order put in place on the preceding Friday and the preliminary injunction entered on November 3. The trial court indicated that the violation required remedial measures and agreed that the ambassador program should be suspended. In addition, the court indicated that it would appoint co-receivers to supervise the absentee ballot portion of the general election. On November 7, 2005, the trial court entered an order officially amending the preliminary injunction to appoint the co-receivers to oversee the absent voter ballot collection and counting process during the November 8, 2005 general election.

On January 13, 2006, plaintiff moved for a final order adjudicating the rights of the parties by issuing a permanent injunction against the mailing of unsolicited applications for absent voter ballots. Plaintiff also requested an award of attorney fees incurred as a result of defendants' contemptuous behavior. Because Currie was not reelected as City Clerk, plaintiff dropped all further requests for relief. On January 27, 2006, defendants responded by moving for summary disposition. Defendants argued that because the election was now final and the composition of the Commission changed, plaintiff's requests for relief were mooted. Defendants also argued that there was no authority supporting an award of attorney fees to plaintiff.

On February 17, 2006, the trial court conducted a hearing on plaintiff's motion for a final order and defendants' motion for summary disposition. At the close of the hearing, the trial court indicated that it would issue a permanent injunction against the mailing of unsolicited applications for absent voter ballots, but would dismiss all of plaintiff's remaining substantive claims. The court also determined that plaintiff was entitled to an award of attorney fees under MCL 600.1721.

On March 23, 2006, the trial court issued an opinion and order granting declaratory relief, entering a permanent injunction and granting in part defendants' motion for summary disposition. On June 20, 2006, the trial court ordered defendants to pay a total of \$91,063 in costs and attorney fees to plaintiff. These appeals followed.

## II. Unsolicited Mailings of Absent Voter Applications

Defendants first contend that the trial court erred when it ruled that MCL 168.759 prohibits city clerks from mailing unsolicited applications for absent voter ballots to prospective voters and permanently enjoined this activity. We disagree.

This Court reviews a trial court's decision to grant injunctive relief for an abuse of discretion. *Kernen v Homestead Development Co*, 232 Mich App 503, 509-510; 591 NW2d 369 (1998). An abuse of discretion occurs when a trial court's decision is not within the range of reasonable and principled outcomes. *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006).

This issue also involves interpretation of MCL 168.759. We review issues of statutory interpretation de novo. *Hamilton v AAA Michigan*, 248 Mich App 535, 540; 639 NW2d 837 (2001). "The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature." *Id.* at 541. "The first criterion in determining legislative intent is the specific language of the statute. . . . If the plain and ordinary meaning of the language is clear, judicial construction is neither necessary nor permitted . . . ." *Id.* If the language is ambiguous, this Court must strive to give effect to the intent of the Legislature by applying a reasonable construction, considering the purpose of the statute, and the object it seeks to accomplish. *Macomb Co Prosecutor v Murphy*, 464 Mich 149, 158; 627 NW2d 247 (2001).

MCL 168.759(5) provides, in relevant part, that "[t]he clerk of the city, township, or village shall have absent voter ballot application forms available in the office of the clerk at all times and shall furnish an absent voter ballot application form to anyone upon a verbal or written request." This subsection clearly addresses the distribution of applications for absent voter ballots. Under a plain reading, this subsection establishes two duties for city clerks. First, the clerk must have applications for absent voter ballots available in the clerk's office at all times. Second, the clerk "shall" provide an application to anyone upon verbal or written request.

"The general rule, with regard to municipal officers, is that they have only such powers as are expressly granted by statute or by sovereign authority or those which are necessarily to be implied from those granted." *Presnell v Wayne Co Bd of Road Comm'rs*, 105 Mich App 362, 368; 306 NW2d 516 (1981), quoting 56 Am Jur 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 276, p 327. Or as our Supreme Court stated, "The extent of the authority of the people's public agents is measured by the statute from which they derive their authority, not by their own acts and assumption of authority." *Sittler v Bd of Control*, 333 Mich 681, 687; 53 NW2d 681 (1952). As such, "[p]ublic officers have and can exercise only such powers as are conferred by law. . . ." *Id.*

Applying this rule to MCL 168.759, it is clear the city clerk has no powers concerning the distribution of ballot applications that are not expressly granted in the statute. And the power to mail unsolicited ballot applications to qualified voters is not expressly stated anywhere in this statute. Nor has appellant cited any other statute that confers this power on the city clerk.

As for whether mass mailing of unsolicited ballot applications is implicitly authorized by statute, we conclude that it is not. First, a power is necessarily implied if it is essential to the exercise of authority that is expressly granted. *Conlin v Scio Twp*, 262 Mich App 379, 385; 686 NW2d 16 (2004). The authority expressly granted in MCL 168.759(5) is that the clerk must have applications for absent voter ballots available in the clerk's office at all times and that the

clerk "shall" provide an application to anyone upon verbal or written request. The mass mailing of unsolicited ballot applications is not essential to the clerk either making ballots available in the clerk's office or providing them upon request. Second, on the basis of the maxim *expressio unius est exclusio alterius*, (the expression of one thing is the exclusion of another), *Feld v Robert & Charles Beauty Salon*, 435 Mich 352, 362; 459 NW2d 279 (1990) (opinion of Riley, C.J.), we read the statute to preclude mass mailing when it specifically states that the clerk shall provide the applications upon written or verbal request. "When a statute limits a thing to be done in a particular mode, it includes a negative of any other mode." *Christensen v Harris Co*, 529 US 576, 583; 120 S Ct 1655; 146 L Ed 2d 621 (2000) (citation and punctuation omitted). Accordingly, we conclude that MCL 168.759(5) does not implicitly permit the city clerk to mail absent voter ballot applications without having received a verbal or written request.

This interpretation of MCL 168.759 is consistent with the sound public policy behind Michigan's election law, which, as stated in the preamble, was enacted, in part, "to provide for the purity of elections; to guard against the abuse of the elective franchise."<sup>4</sup> This is in keeping with the Michigan Constitution, which provides that "the legislature shall enact laws to . . . preserve the purity of elections." Const 1963, art 2, § 4. The Michigan Supreme Court has interpreted the "purity of elections" clause to embody two concepts: "first, that the constitutional authority to enact laws to preserve the purity of elections resides in the Legislature; and second, 'that any law enacted by the Legislature which adversely affects the purity of elections is constitutionally infirm.'" *Socialist Workers Party v Secretary of State*, 412 Mich 571, 596; 317 NW2d 1 (1982), quoting *Wells v Kent Co Bd of Election Comm'rs*, 382 Mich 112, 123; 168 NW2d 222 (1969). The phrase "purity of elections" "requires . . . fairness and evenhandedness in the election laws of this state." *Socialist Workers Party, supra* at 598.

The city clerk, who is an elected official, has the role of neutral arbiter or referee. As a requirement of that office, the city clerk must take and subscribe an oath or affirmation stating,

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the officer of city clerk. [Const 1963, art 11, § 1.]

To construe MCL 168.759 to permit Currie to distribute, in her official capacity, what amounts to propaganda at the city's expense is certainly not within the scope of Michigan election laws or the Michigan Constitution. MCL 168.759(5) does not permit a city clerk to mail absent voter ballot applications without having received a verbal or written request. Accordingly, we conclude that the trial court did not err in granting injunctive relief on this basis.

### III. Criminal Contempt

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<sup>4</sup> A preamble is not binding authority for construing an act, but this Court has recognized that a preamble can be useful for interpreting statutory purpose and scope. *King v Ford Motor Credit Co*, 257 Mich App 303, 311-312; 668 NW2d 357 (2003).

Defendants next argue that Currie's conviction for criminal contempt must be reversed because there was insufficient evidence that she acted in contempt of an enforceable order of the court and because she was not provided with various safeguards required by due process.

Currie was convicted of criminal contempt after a hearing held on September 28, 2005. The trial court entered the order finding Currie in criminal contempt and sentencing her to pay a fine of \$250 on October 11, 2005. Because it was a criminal conviction, Currie had an appeal as of right from the October 11, 2005 order and sentence. However, rather than appeal her conviction and sentence as of right, Currie filed an application for leave to appeal with this Court on October 24, 2005. On October 28, 2005, this Court denied leave to appeal the October 11, 2005 order of criminal contempt in part. In lieu of granting leave to appeal her sentence, this Court vacated a portion of Currie's sentence and remanded the matter for further proceedings. Although this Court remanded the matter, it is clear from the order that this Court denied leave on the substantive portions of Currie's appeal regarding her conviction for criminal contempt for lack of merit. "In a criminal case, the defendant may not file an application for leave to appeal from a judgment of conviction and sentence if the defendant has previously taken an appeal from that judgment by right or leave granted or has sought leave to appeal that was denied." MCR 7.205(F)(2). Because Currie has already taken an appeal, she is not entitled to another.<sup>5</sup>

#### IV. The Trial Court's Appointment of Monitors and Receivers

Defendants next argue that the trial court was without the authority to appoint monitors and receivers over the November 2005 election proceedings. As a result of defendants' failure to comply with the trial court's injunctions, the trial court appointed special monitors to investigate certain conduct and eventually appointed receivers to oversee the collection and processing of absent voter ballots during the November 2005 election. However, because the monitors completed their investigation and the receivers completed their oversight responsibilities before this appeal, even if this Court were to conclude that the trial court exceeded its authority, it would not be able to remedy the error. Therefore, these issues are moot. *In re Contempt of Dudzinski*, 257 Mich App 96, 112; 667 NW2d 68 (2003). And although there is a possibility that future litigants will again dispute the extent of a trial court's power to fashion equitable remedies for contempt and to appoint receivers, there is no indication that this issue will likely evade this Court's review. *Federated Pub, Inc v City of Lansing*, 467 Mich 98, 112; 649 NW2d 383 (2002), abrogated not in relevant part by *Herald Co v Eastern Mich Univ Bd of Regents*, 475 Mich 463; 719 NW2d 19 (2006). Therefore, we decline to address these claims of error.

#### V. Attorney Fees

We next address defendants' arguments concerning the trial court's award of attorney fees to plaintiff.

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<sup>5</sup> Once this Court denied leave in part for lack of merit, Currie had to either move for reconsideration of this Court's order, MCR 7.215(I), or file an appeal with our Supreme Court, MCR 7.302.

### A. Standard of Review

"The decision to award attorney fees, and the determination of the reasonableness of the fees requested, is within the discretion of the trial court." *Windemere Commons I Ass'n v O'Brien*, 269 Mich App 681, 682; 713 NW2d 814 (2006). If the trial court's decision results in an outcome within the range of principled outcomes, it has not abused its discretion. *Maldonado, supra* at 388. Any findings of fact on which the trial court bases an award of attorney fees are review for clear error. *Solution Source, Inc v LPR Associates Ltd Partnership*, 252 Mich App 368, 381; 652 NW2d 474 (2002).

### B. Authorization of Attorney Fees for Criminal Contempt

Defendants first argue that MCL 600.1721 does not authorize a trial court to order an award of attorney fees as a remedy for criminal contempt. We disagree. MCL 600.1721 provides that, "[i]f the alleged misconduct has caused an actual loss or injury to any person the court shall order the defendant to pay such person a sufficient sum to indemnify him, in addition to the other penalties which are imposed upon the defendant." Thus, under a plain reading of MCL 600.1721, a court must order a person found to be in contempt of court to indemnify any person who suffers an actual loss or injury as a result of the contemnor's misconduct. See *In re Contempt of Rochlin*, 186 Mich App 639, 650; 465 NW2d 388 (1990). The sum required by MCL 600.1721 "may include attorney fees that occurred as a result of the other party's contemptuous conduct." *Homestead v Holly Twp*, 178 Mich App 239, 245-246; 443 NW2d 385 (1989).

Because MCL 600.1721 does not make a distinction between civil and criminal contempt, but rather requires a trial court to order a contemnor to indemnify any person that suffers an "actual loss or injury" caused by the contemnor's "misconduct," we hold that the indemnification sanction mandated by MCL 600.1721 applies even when a trial court imposes a punitive (i.e., criminal) sanction on a contemnor. The trial court did not err when it ordered defendants to indemnify plaintiff for the losses she actually suffered as a result of defendants' contemptuous conduct.

### C. Evidentiary Hearing and Findings

Defendants next argue that the trial court failed to hold an evidentiary hearing on the reasonableness of the award of attorney fees to plaintiff and failed to make findings with the necessary specificity. We disagree.

In its opinion of May 18, 2006, the trial court found that "Currie's contemptuous behavior led to extended proceedings and directly led to the appointment of monitors and ultimately a receiver." Further, the court specifically referred to the contempt arising out of the mailing, rather than the separate contempt arising out of the improper use of ambassadors. Based on these findings, the trial court concluded that all the costs and attorney fees incurred by plaintiff that were "connected with those proceedings, including work relating to appellate proceedings, would be recoverable." The court also determined that the costs of investigating the contempt were recoverable. The court then made findings regarding the amount of fees that were incurred as a result of the contempt.

Although defendants challenged the reasonableness of plaintiff's attorney fees, they did not request a separate evidentiary hearing on the fees. Furthermore, defendants were afforded ample opportunity to contest the reasonableness of the fees at the hearing on plaintiff's renewed motion for attorney fees held on March 31, 2006. Indeed, the trial court accepted an exhibit from defendants on the reasonableness of the \$375 hourly rate. Additionally, the trial court had the benefit of two separate briefings by the parties on the issue of attorney fees, which included detailed billings. Based on the hearing and briefings, the trial court made general findings concerning the various expenses that were caused by defendants' contemptuous conduct. These findings sufficiently addressed the reasonableness of the fees. *Maple Hill Apt Co v Stine (On Remand)*, 147 Mich App 687, 693; 382 NW2d 849 (1985). Therefore, defendants' arguments that the trial court's findings were insufficient and that the trial court erred when it failed to hold an evidentiary hearing on the reasonableness of the fees are without merit.

#### D. Attorney Fees Unrelated to the Contempt

Defendants also argue that the appointment of a receiver and monitors "did not flow from the criminal contempt order issued against Jackie Currie." For this reason, defendants contend, the attorney fees plaintiff incurred as a result of those proceedings are not compensable under MCL 600.1721. We agree.

Under MCL 600.1721, the trial court must order a contemnor to indemnify any person who suffers a loss as a result of the contemnor's misconduct. Hence, if Currie's misconduct led to plaintiff incurring attorney fees, whether those fees were related to the prosecution of the contempt, the investigation of the contempt, or to fashioning a remedy for the contempt, the trial court was required to order defendants to indemnify those fees. Because the formulation of a plan for election oversight and the initial appointment of the monitors was a direct result of the illicit mailing, the trial court did not clearly err in determining that the costs plaintiff incurred in association with the plan and the appointment of the monitors were caused by defendants' contemptuous conduct. However, plaintiff's request for an injunction against the use of ambassadors was primarily based on plaintiff's case-in-chief and was only tenuously connected to the contempt arising out of the mass mailing. Likewise, the violation of the injunction applicable to the ambassadors and the subsequent appointment of receivers were not causally connected to the earlier contempt. Therefore, the trial court clearly erred in finding that the proceedings involving the injunction applicable to the ambassadors was directly related to defendants' contempt in sending the mass mailing.<sup>6</sup> Accordingly, we vacate the award of attorney fees to the extent that the award included fees not directly related to defendants making of the mass mailing in violation of the court's order and remand for recalculation of the award.

#### E. Hourly Rate

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<sup>6</sup> We express no opinion as to whether and to what extent the trial court could have separately awarded plaintiff attorney fees based on the violation of the injunction barring the use of ambassadors.

Finally, defendants contend that the trial court abused its discretion when it determined that \$375 per hour was a reasonable rate. We disagree.

The factors to be considered in determining the reasonableness of the award include:

(1) the professional standing and experience of the attorney; 2) the skill, time, and labor involved; (3) the amount in question and the results achieved; (4) the difficulty of the case; (5) the expense incurred; and (6) the nature and length of the professional relationship with the client. [*Wood v DAHE*, 413 Mich 573, 588; 321 NW2d 653 (1982).]

At the hearing held on March 31, 2006, the trial court determined that the \$375 per hour fee was reasonable. Indeed, the court stated that plaintiff's attorneys were of the "caliber" of top equity partners from the top firms in Detroit. Further, the court explained that it was familiar with the rates charged by Detroit attorneys of plaintiff's attorneys' experience and expertise and concluded that \$375 per hour was very reasonable. In addition, the court noted that at "a certain point in time," the attorneys were providing "around the clock legal services" to the plaintiff and had to be at the court's dispatch on very short notice. The trial court properly considered the expertise of the attorneys, the going rate for their services in the locality, as well as the time and labor involved in the litigation. In contrast, defendants claimed that the rate was unreasonable because a 2003 article indicated that the median billing rate for all private practitioners in the state of Michigan was \$170 per hour. Although the trial court considered the article, it rejected it as outdated and inaccurate. Because the trial court based its decision on appropriate considerations and selected a rate that was within the range of reasonable and principled outcomes, it did not abuse its discretion. *Windemere, supra* at 682.

#### VI. Conclusion

We affirm the trial court's permanent injunction against the mass mailing of unsolicited applications for absent voter ballots. We also affirm the trial court's ruling that plaintiff was entitled to attorney fees, but vacate order awarding attorney fees and remand for recalculation of the award in accordance with this opinion. We do not retain jurisdiction.

/s/ William C. Whitbeck

/s/ Kirsten Frank Kelly

# **RECYCLABLE PAPER**

RESOLUTION NO.

FULL BOARD MEETING DATE

AGENDA ITEM

MACOMB COUNTY, MICHIGAN

RESOLUTION TO: approve \$163,720 in additional Departmental spending cuts in the 2008 Budget as noted on revised Exhibit I.

INTRODUCED BY: Don Brown, Chairperson, Budget Committee

COMMITTEE/MEETING DATE: Budget Committee, Jan 22, 2008

## SUMMARY OF 2008 BUDGET

	2008 BUDGET	ACTION TAKEN			TOTAL
		12/11/2007 CHAIRMAN'S RECOMM (A)	1/8/2008 BUDGET COMM (I)	1/22/2008 BUDGET COMM (I)	
GENERAL FUND					
EXPENSES	\$ 197,649,540	\$ (2,342,850) A	\$ (1,055,071)	\$ (163,720) *	\$ 194,087,899
REVENUE	\$ 185,612,141	\$ 3,015,000 A	\$ 296,192		\$ 188,923,333
TOTAL DEFICIT	\$ (12,037,399)				\$ (5,164,566)
* PROPOSED REDUCTIONS					
CIRCUIT COURT				\$ (73,180) *	
DISTRICT COURT I				\$ (5,000) *	
DISTRICT COURT II				\$ (5,000) *	
PROBATE COURT (MENTAL & WILLS)				\$ (80,540) *	
CHILD CARE				\$ - *	
TOTAL				\$ (163,720)	

(A) - SCHEDULE A  
(I) - EXHIBIT I

As amended at the 12-11-07  
Budget Committee

Denise

	2006 Actual	2007 Budget	YTD 9/30/2007	2008 Projection	Revised 2008 Recommend	Revised 2008 Reduction
<b>Board of Commissioners</b>						
Conference & Seminar	1,461	14,350	5,249	14,350	5,500	(8,850) —
NACO Award Breakfast	2,810	3,000	1,565	3,000	500	(2,500) —
Public Information	-	10,000	-	10,000	-	(10,000) —
Volunteer Recognition	6,263	7,500	6,476	7,500	500	(7,000)
Student Government Day	36	2,500	29	2,500	500	(2,000)
Older American Festival	18,207	23,000	15,135	23,000	500	(22,500)
Annual Report	130,000	-	-	130,000	-	(65,000) (1)
<b>Total Board of Commissioners</b>	<b>158,777</b>	<b>60,350</b>	<b>28,454</b>	<b>190,350</b>	<b>7,500</b>	<b>(117,850)</b>
<b>Other Items</b>						
Vehicles	610,537	750,000	286,240	750,000	350,000	(400,000) —
Capital Outlay - Furniture	95,058	200,000	23,901	200,000	75,000	(125,000) —
Contingency	324,216	630,000	261,765	700,000	400,000	(300,000) —
Contribution - Park Fund	803,788	1,045,934	464,558	911,977	811,977	(100,000)
Court Building Safety - Bluecoats	1,039,001	1,115,591	787,142	1,114,154	1,114,154	-
Sheriff	58,487,433	62,727,656	40,296,074	60,823,766	60,323,766	(500,000)
Local Ordinance Chagrebaks - Jail	-	-	-	-	-	(15,000)
Extend Hiring Freeze Addl 10 Wks	-	-	-	-	-	(800,000)
<b>Total Other Items</b>	<b>61,360,033</b>	<b>66,469,181</b>	<b>42,119,680</b>	<b>64,499,897</b>	<b>63,074,897</b>	<b>(2,240,000)</b>
<b>Grand Total</b>	<b>61,518,810</b>	<b>66,529,531</b>	<b>42,148,134</b>	<b>64,690,247</b>	<b>63,082,397</b>	<b>(2,357,850)</b>

(1) - Savings annualized

Rev. Sharing \$3,000,000



# BOARD OF COMMISSIONERS

1 S. Main St., 9th Floor  
Mount Clemens, Michigan 48043  
586-469-5125 FAX 586-469-5993  
macombcountymi.gov/boardofcommissioners

TO: BOARD OF COMMISSIONERS

FROM: DON BROWN, CHAIR, BUDGET COMMITTEE

RE: RECOMMENDATIONS FROM BUDGET COMMITTEE  
MEETING OF DECEMBER 11, 2007

At a meeting of the Budget Committee, held Tuesday, December 11, 2007, the following recommendations were made and are being forwarded to the Full Board for approval:

## 1. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A MOTION WAS MADE BY MIJAC, SUPPORTED BY RENGERT, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS APPROVE \$2,357,850 IN SPENDING CUTS AS NOTED IN CORRESPONDENCE DATED NOVEMBER 29, 2007 FROM BUDGET CHAIR DON BROWN AND SUMMARIZED ON SCHEDULE A, AS AMENDED. FURTHER, TO AUTHORIZE THE TRANSFER OF \$3 MILLION FROM THE REVENUE SHARING RESERVE SURPLUS ACCOUNT TO SUPPORT THE 2008 COUNTY BUDGET. FURTHER, TO AUTHORIZE THE TRANSFER OF \$4.2 MILLION FROM THE REVENUE SHARING RESERVE SURPLUS ACCOUNT TO THE CAPITAL IMPROVEMENT PROJECTS FUND. **THE MOTION CARRIED.**

## 2. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A MOTION WAS MADE BY DROLET, SUPPORTED BY LUND, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS PROHIBIT COUNTY COMMISSIONERS FROM RECEIVING PER DIEM AND MILEAGE COMPENSATION ABOVE THE AMOUNT OF BASE SALARIES UNLESS REQUIRED BY LAW. FURTHER, THAT THIS WOULD BE EFFECTIVE FOR THE 2008 AND 2009 BUDGET. **THE MOTION CARRIED.** (Roll call vote: Yes-Brdak, Brown, Bruley, Camphous-Peterson, Crouchman, DeSaele, DiMaria, Doherty, Drolet, Duzyj, David Flynn, Joan Flynn, Gielegghem, Haggerty, Lund, Mijac, Roberts, Rocca, Sauger, Slinde, Switalski, Tocco, Torrice and Vosburg)

## 3. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A MOTION WAS MADE BY VOSBURG, SUPPORTED BY ROCCA, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS APPROVE THE 2007 EQUALIZATION STUDY AS SUBMITTED BY THE EQUALIZATION DEPARTMENT. **THE MOTION CARRIED.**

## 4. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A MOTION WAS MADE BY SAUGER, SUPPORTED BY JOAN FLYNN, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS APPROVE THE TRANSFER OF \$5,000 FROM THE OPERATING BUDGET TO THE SALARY BUDGET WITHIN THE 2007 COURT BUILDING SECURITY BUDGET TO COVER EXTRA SECURITY FOR THE GRANT TRIAL AS OUTLINED IN THE ATTACHED MEMO FROM THE CIRCUIT COURT. NO ADDITIONAL FUNDING IS REQUESTED. **THE MOTION CARRIED.**

## 5. COMMITTEE RECOMMENDATION – MOTION (SEE ATTACHED)

A MOTION WAS MADE BY GIELEGHEM, SUPPORTED BY BRDAK, TO RECOMMEND THAT THE BOARD OF COMMISSIONERS APPROVE PAYMENT OF \$5,527.25 TO VERCRUYSSSE MURRAY & CALZONE FOR PROFESSIONAL SERVICES RENDERED THROUGH OCTOBER 31, 2007. FUNDING IS AVAILABLE IN THE CONTINGENCY ACCOUNT. **THE MOTION CARRIED.**

### **MACOMB COUNTY BOARD OF COMMISSIONERS**

William A. Crouchman  
District 23  
Chairman

Dana Camphous-Peterson  
District 18  
Vice-Chair

Leonard Haggerty  
District 21  
Sergeant-At-Arms

Andrey Duzyj - District 1  
Marvin E. Sauger - District 2  
Phillip A. DiMaria - District 3  
Jon M. Switalski - District 4  
Sue Rocca - District 5

Joan Flynn - District 6  
Sue Rocca - District 7  
David Flynn - District 8  
Robert Mijac - District 9

Ed Szczepanski - District 11  
Peter J. Lund - District 12  
Don Brown - District 13  
Brian Brdak - District 14

Carey Torrice - District 16  
Ed Bruley - District 17  
Paul Gielegghem - District 19

Betty Slinde - District 22  
Sarah Roberts - District 24  
Kathy D. Vosburg - District 25

COMMITTEE	DEPARTMENTAL RESPONSIBILITY	REVENUE	EXPENSES	TOTAL	ACTION TAKEN/REQUIRED
BUDGET	EQUALIZATION	\$ -	\$ -	-	REDUCE PERSONNEL
COMMUNITY SERVICES	COMMUNITY SERVICES AGENCY	\$ -	\$ 31,642	-	INCR REVENUE SOURCE/REDUCE GF
	VETERANS SERVICES	\$ -	\$ 20,000	-	GRAVE MARKER REDUCTION TO \$100
	LIBRARY	\$ -	\$ 108,718	-	REDUCE 2 POS IN JANUARY
	MSU EXTENSION SERVICES	\$ -	\$ 55,263	-	REDUCE OPERATING
FINANCE	FINANCE DEPARTMENT	\$ -	\$ -	-	REDUCE PERSONNEL
	PURCHASING	\$ -	\$ 6,220	-	REDUCE PERSONNEL
	RISK MANAGEMENT	\$ -	\$ 8,500	-	JANUARY FINANCE COMM
	TREASURER	N/A	N/A	-	JANUARY FINANCE COMM
HEALTH SERVICES	DEPT OF HUMAN SERVICES (FIA)	\$ -	\$ -	-	SERVICE REDUCTION
	HEALTH DEPARTMENT	\$ -	\$ 60,000	-	SERVICE REDUCTION
	COMMUNITY MENTAL HEALTH	\$ -	\$ 100,000	-	REDUCE OPERATING
	SUBSTANCE ABUSE	\$ -	\$ -	-	SERVICE REDUCTION
	MARTHA T BERRY	\$ -	\$ -	-	SERVICE REDUCTION
JPS	X CIRCUIT COURT	\$ -	\$ 73,180	-	REDUCE OPERATING
	X DISTRICT COURT I	\$ -	\$ 5,000	-	REDUCE OPERATING
	X DISTRICT COURT II	\$ -	\$ 5,000	-	REDUCE OPERATING
	X PROBATE COURT	\$ -	\$ 80,540	-	REDUCE OPERATING
	FAMILY COURT-JUVENILE	\$ -	\$ 35,000	-	REDUCE OPERATING
	FRIEND OF THE COURT	\$ -	\$ 191,870	-	REDUCE OPERATING
	REIMBURSEMENT	\$ -	\$ -	-	REDUCE PERSONNEL
	PROBATION-CIRCUIT	\$ -	\$ 5,000	-	REDUCE OPERATING
	PROBATION-DISTRICT	\$ 10,000	\$ -	-	REV ENCHANCEMENT
	PROSECUTING ATTORNEY	\$ -	\$ -	-	REDUCE PERSONNEL
	SHERIFF DEPARTMENT	\$ -	\$ -	-	ALREADY REDUCED \$500,000
	ORDINANCE CHARGES	\$ -	\$ -	-	<b>NEED MEETING W/SHERIFF</b>
	COMMUNITY CORRECTIONS	\$ -	\$ 11,300	-	REDUCE OPERATING
	BUILDING SAFETY (BLUE COATS)	\$ -	\$ 30,000	-	CLOSE 1ST FLOOR ADMIN BUILDING
	LAW LIBRARY	\$ -	\$ 5,850	-	REDUCE OPERATING
	* JUVENILE JUSTICE CENTER	\$ -	\$ -	-	<b>\$100,000 SAVED IF LAUNDRY OUTSOURCED</b>
	EMERGENCY MANAGEMENT	\$ -	\$ 3,000	-	REDUCE OPERATING
	TECHNICAL SERVICES	\$ -	\$ 6,000	-	REDUCE OPERATING
	X CHILD CARE	\$ -	\$ -	-	WILLING TO REDUCE POSITION
LASC	COUNTY CLERK/REGISTER OF DEEDS	\$ 100,000	\$ -	-	WHEN VACANT
	INFORMATIONAL TECHNOLOGY	\$ -	\$ -	-	12.5 TO .18 CENTS BULK SALES ROD
	TELECOMMUNICATIONS/REPAIRS CHARGES	\$ -	\$ 86,000	-	<b>REDUCE CELL PHONE COSTS PER IT DIR</b>
	CORPORATION COUNSEL	\$ -	\$ -	-	<b>IF APPROVED</b>

COMMITTEE	DEPARTMENTAL RESPONSIBILITY BOARD OF COMMISSIONERS	REVENUE	EXPENSES	TOTAL	ACTION TAKEN/REQUIRED
		\$ -	\$ -	-	
OPERATIONAL SERVICES	PUBLIC WORKS	\$ 111,192	\$ -	-	PER NANCY RYAN MEMO DATE NOV, 2007
	FACILITIES AND OPERATIONS	\$ -	\$ 76,942		ELIM 1 CUSTODIAN POS & REDUCE PAPER TOWEL COSTS
	F & O SECURITY (GRAY COATS) PARKS & RECREATION	\$ -	\$ -	-	REDUCE PERSONNEL
		\$ -	\$ -	-	ALREADY READY REDUCED \$100,000
PERSONNEL	HUMAN RESOURCES OMBUDSPERSON	\$ -	\$ 53,766		FREEZE A/C FOR ENTIRE 2008 FUNDING NOT IN BUDGET
PED	PLANNING	\$ 75,000	\$ -	-	FROM BLOCK GRANT TO PAY FOR PROG MANAGER
SENIOR CITIZENS	SENIOR CITIZENS SERVICES	\$ -	\$ 110,000		INCR RATES FOR ADULT DAY CARE PER DIRECTOR REDUCE GF CONTRIBUTION
	SENIOR LEGAL SERVICES AREA AGENCY ON AGING	\$ -	\$ -	-	
NON-DEPARTMENTAL	IT CAP IMP FUND	\$ -	\$ 50,000		REDUCE COMP EQUIPMENT REPL
TOTAL EFFECT ON GENERAL FUND		\$ 296,192	\$ 1,218,791	\$ 1,514,983	

\* RECOMMENDATION TO SEEK BID FOR JJC, MARTHA T. BERRY AND JAIL LAUNDRY  
X - ADDITIONAL DEPARTMENTAL REDUCTIONS.

# **RECYCLABLE PAPER**

RESOLUTION NO.

FULL BOARD MEETING DATE

AGENDA ITEM

MACOMB COUNTY, MICHIGAN

RESOLUTION TO receive and file the Retiree Health Care Trust Fund Financial Report for 2006.

INTRODUCED BY: Commissioner Don Brown  
Chairman, Budget Committee

COMMITTEE/MEETING DATE

Budget/January 22, 2008

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# Macomb County Retiree Health Care Trust Fund

## FINANCIAL REPORT FOR THE YEAR 2006

### TO COMMISSION MEMBERS:

Chairperson:	Don Brown, County Commissioner
Vice-Chairperson:	Susan Doherty, County Commissioner
Members:	Philis DeSaele, County Commissioner Andre Duzyj, County Commissioner Betty Slinde, County Commissioner Ted B. Wahby, County Treasurer David M. Diegel, County Finance Director
Legal Advisor:	George E. Brumbaugh, Jr., County Corporation Counsel
Actuary:	Gabriel, Roeder, Smith & Co.
Custodian:	Comerica Bank
Fiduciary	World Asset Management

**Macomb County, Michigan  
Balance Sheet  
Retiree Health Care Trust Fund  
December 31,**

	<u>2005</u>	<u>2006</u>
<b>ASSETS</b>		
Cash and pooled investments	\$ -	\$ 93,200
Accrued interest receivable	293,035	482,243
Investments, at fair value	92,336,489	109,361,102
Prepaid expenses	-	5,779
	<hr/>	<hr/>
Total Assets	92,629,524	109,942,324
	<hr/>	<hr/>
<b>LIABILITIES</b>		
Accounts Payable	61,691	65,270
Due to other funds	2,840,245	3,400,836
	<hr/>	<hr/>
Total Liabilities	2,901,936	3,466,106
	<hr/>	<hr/>
<b>NET ASSETS</b>	<u>\$ 89,727,588</u>	<u>\$ 106,476,218</u>

**Macomb County, Michigan  
Statement of Revenues, Expenses and Changes in Fund Balance  
Retiree Health Care Trust Fund  
Year Ended December 31,**

	<u>2005</u>	<u>2006</u>
<b>ADDITIONS</b>		
Employer contributions	\$ 8,814,855	\$ 9,440,450
Retiree contributions	567,112	558,390
	<hr/>	<hr/>
Total contributions	9,381,967	9,998,840
	<hr/>	<hr/>
Investment income		
Net appreciation in fair value of assets	488,620	12,964,395
Interest and dividends	5,444,483	3,784,235
	<hr/>	<hr/>
Total investment income	5,933,103	16,748,630
	<hr/>	<hr/>
Total additions	15,315,070	26,747,470
	<hr/>	<hr/>
<b>DEDUCTIONS</b>		
Benefit payments	9,297,651	9,926,605
Administrative expenses	84,314	72,235
	<hr/>	<hr/>
Total deductions	9,381,965	9,998,840
	<hr/>	<hr/>
Net increase in net assets	5,933,105	16,748,630
Net assets, beginning of year	83,794,483	89,727,588
	<hr/>	<hr/>
Net assets, end of year	<u>\$ 89,727,588</u>	<u>\$ 106,476,218</u>

# MACOMB COUNTY RETIREE HEALTH CARE TRUST FUND

## Notes to Basic Financial Statements

December 31, 2006

### Note 1 – Summary of Significant Accounting Policies

Plan Description - The Retiree Health Care Trust Fund (the "Fund") is utilized by the County to account for the costs associated with providing certain health care benefits to its General and Sheriff Department retirees and beneficiaries currently receiving retirement benefits. In accordance with labor agreements and County policy, substantially all of the County's employees may become eligible for these benefits if they meet normal vesting requirements while still working for the County. Benefits are provided through insurance companies, whose premiums are based on the benefits paid during the year. Retiree health care expenditures are recognized when premiums are paid and totaled \$9,926,605 in 2006. The County recognizes that post-retirement health care represents a significant liability and, in addition to current costs, will strive to make contributions toward the unfunded liability as financial conditions permit.

Basis of Accounting - The financial statements of the Fund are prepared using the accrual basis of accounting. Employee and employer contributions are recognized in the period that the contributions are due. Benefits and refunds are recognized when due and payable according to the terms of the plan.

Funding Policy - Employer contributions are made on a biweekly basis on a percentage of payroll basis. Plan members are required to contribute 25% of the cost of vision and dental coverage and minimal co-pays for prescription drugs. The employer contributes the balance of the actual current costs for these and all other benefits and administrative expenses of the Fund. The employer also contributes additional amounts to pre-fund benefits in years it can afford to do so. Employer contributions totaled \$9,440,450 for the year ended December 31, 2006, or approximately 8.3% of covered payroll. The required contribution rates for 2006 were determined in the valuation dated December 31, 2004. Those rates expressed as a percentage of payroll, were 38.62% for General employees and 26.37% for Sheriff Department employees.

Actuarial Assumptions - Significant actuarial assumptions used in determining the annual required contribution include:

- Investment rate of return of 7.5%
- Salary increases of 5.0% per year
- Unfunded actuarial liabilities are amortized over 30 years.

**MACOMB COUNTY RETIREE HEALTH CARE TRUST FUND**  
**Notes to Basic Financial Statements (continued)**  
**December 31, 2006**

**Note 1 – Summary of Significant Accounting Policies (concluded)**

**Funding Status and Progress** - The accrued liability as determined by the latest valuation dated December 31, 2006 was \$643,208,474. Net assets as of December 31, 2006 totaled \$106,476,218, or 16.6% of the 2006 accrued liability. The funding progress of the Fund as determined by the four previous valuations is presented below.

**MACOMB COUNTY RETIREE HEALTH CARE TRUST FUND**  
**SCHEDULE OF FUNDING PROGRESS**

Actuarial Valuation Date December 31	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - (b)	Unfunded (Overfunded) AAL (UAAL) OAAL (b-a)	Funded Ratio (a/b)	Covered Payroll (c)	UAAL as a Percentage of Covered Payroll ((b-a)/c)
1993	\$ -	\$ 108,173,959	\$ 108,173,959	0.00%	\$ 75,032,106	144.17
1997	13,959,351	127,769,622	113,810,271	10.93%	85,257,929	133.49
2000	40,209,164	287,726,277	247,517,113	13.97%	94,345,155	262.35
2004	83,794,483	492,905,016	409,110,533	17.00%	117,894,514	347.01
2006	106,476,218	643,208,474	536,732,256	16.55%	113,523,878	472.79

**MACOMB COUNTY RETIREE HEALTH CARE TRUST FUND**  
**SCHEDULE OF EMPLOYER CONTRIBUTIONS**

Year Ended December 31	Annual Required Contribution	Actual Contribution	Percentage Contributed
2006	\$ 44,511,025	\$ 9,440,450	21.2%

**Note 2 – Cash and Investments** – Investments are reported at fair value, as indicated by quoted market prices as of December 31 of each year. Investments held at year-end were allocated as follows:

	2005	2006
Cash equivalents	\$ -	\$ 93,200
Bond index fund	18,485,740	21,569,003
Small cap index fund	1,822,050	2,576,966
Mid cap index fund	4,502,716	5,998,086
Large cap index fund	39,882,521	46,504,881
Common stock	13,548,618	399,746
Foreign stock	14,094,844	16,089,493
Real Estate Investment Trusts	-	16,222,927
Investments Subtotal	92,336,489	109,361,102
Grand Total	\$ 92,336,489	\$ 109,454,302

**MACOMB COUNTY RETIREE HEALTH CARE TRUST FUND**  
**Notes to Basic Financial Statements (concluded)**  
**December 31, 2006**

**Note 3 – New Accounting Pronouncements and Upcoming Reporting Requirements**

The Fund adopted GASB Statement No. 43, "Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans" for the year ended December 31, 2006. The disclosure requirements of the new pronouncement are very similar in nature to those set forth in GASB Statement No. 25, "Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans" and requires postemployment benefit plans to measure and report on the actuarially determined liability associated with providing such benefits. The new standard also requires an actuarial valuation to be performed at least every two years.

The Governmental Accounting Standards Board has also released Statement No. 45, "Accounting and Reporting by Employers for Postemployment Benefits Other Than Pensions". The new pronouncement is very similar in nature to GASB Statement No. 27, "Accounting for Pensions by State and Local Government Employers" and will require governmental entities to recognize the cost of providing retiree health care coverage over the working life of the employee rather than at the time the health care premiums are paid. The new pronouncement will also require employers to include schedules of funding progress and actual versus required contributions in the footnotes of their annual financial statements. The new pronouncement is effective for the County as employer for the year ending December 31, 2007.